

# Eau Claire County

## Land and Water Resource Management (LWRM) Plan

2012-2022



**Eau Claire County**  
**Department of Planning & Development**  
**Land Conservation Division**

[http://www.co.eau-claire.wi.us/CountyDepartments/planning\\_and\\_development/land\\_conservation.htm](http://www.co.eau-claire.wi.us/CountyDepartments/planning_and_development/land_conservation.htm)

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## Executive Summary

Eau Claire County is a diverse landscape in West-central Wisconsin with River systems at its center. "Eau Claire" is the singular form of the original French name, "Eaux Claires", meaning "Clear Waters". With partially glaciated and partially driftless area terrain, the County holds a balance of urban and rural uses that lends itself well to a variety of cropping systems and development opportunities.

The Eau Claire County Land Conservation Division (LCD) of the Department of Planning and Development (P&D) has a strong enforcement role throughout the County but is also looked to for technical assistance and expert guidance in matters related to natural resource conservation and preservation. The main program and service areas within LCD can be compiled into three categories (as identified within the County's performance management framework):

- Land Conservation Planning
- Water Quality Protection
- Land Preservation

The Land Conservation Commission provides direct oversight for implementation of this LWRM plan, with additional advisement from the Groundwater Advisory Committee, Planning and Development Committee, and the Stewardship Subcommittee, and the Eau Claire County Board of Supervisors. Department activities are reviewed for consistency with the County's Comprehensive Plan, Farmland Preservation Plan, Strategic Plan, Comprehensive Land Use Plan, Outdoor Recreation Plan, Groundwater Management Plan, and other guidance documents on a regular basis.

This 2012 LWRM plan is a fresh beginning in the continuation of natural resources conservation in Eau Claire County. As a ten-year LWRM plan, Eau Claire County intends to integrate various sources of funding and assistance in order to continue implementation of the activities set forth in this plan.

## Public Input and Citizen Advisory Participation

### *Local County Government Partners*

#### Land Conservation Commission

Robin Leary, Chair	County Board Supervisor
Gary Gibson, Vice-Chair	County Board Supervisor
Ray Henning	County Board Supervisor
Tami Schraufnagel	County Board Supervisor
Bruce Willett	County Board Supervisor
Ronald Erickson	Citizen Member
*Watford Seguin	Farm Service Agency Representative
<i>Currently Vacant</i>	Farmer Member

#### Groundwater Advisory Committee

Pete Marsnik, Chair	Citizen Member
*James Dunning, Vice-Chair	County Board Supervisor
Will Fantle	County Board Supervisor
Steve Chilson	County Board Supervisor
Duane Meritt	Towns Association Representative
John Paddock	Board of Health Representative
Kathleen Grote	Expert Citizen Member
Michael Blodgett	WI DNR Representative

#### Land Stewardship Sub-Committee of the Land Conservation Commission

Kevin Stelljes, Chair	Citizen Member
*Rick Koziel	Beaver Creek Reserve
Will Fantle	County Board Supervisor
Monica Lewis	Citizen Member
Randy Tews	Citizen Member
John (Duke) Welter	Citizen Member
Bruce Willett	County Board Supervisor

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## *Other Partners*

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Fred Poss, President	Lake Eau Claire Association
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Matt Weber, President	Lake Altoona District
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Members of other local organizations, town boards, and county committees.	

\* Denotes citizen advisory participation and/or provided public input. Please reference Attachment A for a summary of the survey results provided by this group.

## Chapter 1: Introduction



**Figure 1: A typical Eau Claire County rural agricultural landscape with rolling hills.**

### Land and Water Resource Management Planning in Eau Claire County

This Eau Claire County *Land & Water Resource Management* (LWRM) plan will update and replace the 2007-2012 update of the originally adopted 1999 plan. Each LWRM plan has been reviewed and approved by the Eau Claire County Board of Supervisors as well as the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) and Wisconsin Department of Natural Resources (DNR) via the Wisconsin Land and Water Conservation Board (LWCB). The LWRM plan follows the requirements set forth in ATCP 50.12, which delineate plan contents and development.

The Eau Claire County LWRM plan is used by the Land Conservation Division of the Planning & Development Department as a guide to manage the land and water resources of Eau Claire County. It is the intent of the Land Conservation Division to carry out the Eau Claire County Board policy in accordance with the Eau Claire County Mission Statement:

“To provide quality, innovative, and cost effective services that safeguard and enhance the well-being of residents and resources.”

In addition to several ordinances at the County level, it is also the intent of Eau Claire County to follow and assist in implementation, to the best of our ability, state policies that fall in line with the approved LWRM plan.



Local leadership and management of our land and water resources strengthen the plan's success. Eau Claire County operates under the principle that our local communities are able to identify, assess, and assist in resolving natural resource concerns. Much like the Eau Claire County Comprehensive Plan, the LWRM plan relies on input from a broad range of the community involving both rural and urban interests. The Citizen Advisory Participants in the previous section are recognized for their contributions, especially their input in reviewing the plan and associated goals. The Land Conservation Commission invited public input by requesting survey contributions in July 2011 and held a Public Hearing before adopting the plan and forwarding it to the County Board and the Wisconsin LWCB for their approvals.

The Vision Statement from the Eau Claire County Comprehensive Plan helps to guide land use policy development and is defined as follows:

Eau Claire County is...

A unified region with active urban centers surrounded by working rural landscapes and pristine natural resources. Residents of all ages enjoy a high quality of life, with ample opportunities for housing, employment, recreation, education, health and community services. The County continues to balance the preservation of farmland and natural resources with sustainable economic development. Vibrant well-planned development is located primarily in cities and villages, and carefully managed in rural areas to minimize conflict with agricultural land uses and maintain rural character.

Eau Claire County is a desirable place to live because of its natural beauty, employment and educational opportunities, and well-maintained multimodal transportation network. While the City of Eau Claire remains the heart of the non-agricultural economic activity, residents recognize and appreciate urban and rural interdependencies. Citizens share responsibility for the improvement of urban services and the preservation of rural areas and sensitive natural resources supporting their communities. County leaders continue to work with municipalities, state agencies, and the private sector to support sustainable development and the efficient delivery of services for the betterment of the region as a whole.

(Eau Claire County Comprehensive Plan)

Eau Claire County is unique in that there are exceptional soil and water resources in the county while also balancing very urban and very rural issues amongst all land uses. As a ten-year LWRM plan, LCD intends to integrate various sources of funding and assistance in order to continue implementing the activities set forth in this plan. Eau Claire County believes that the necessary components comply with all statutory requirements and have either met or made significant strides towards meeting the goals that were set as part of the previous planning effort.

## Chapter 2: Resource Assessment

### General Characteristics

Eau Claire County is a diverse landscape in West-central Wisconsin with River systems at its center. "Eau Claire" is the singular form of the original French name, "Eaux Claires", meaning "Clear Waters". According to local legend, the Eau Claire river was so named because early French explorers journeying down the rain-muddied Chippewa River, happened upon the Eau Claire River, excitedly exclaiming "Voici l'eau claire!" ("Here [is] clear water!"). The Eau Claire River is the major water feature running from east to west across the County and joins the Chippewa River in Downtown Eau Claire.



Figure 2: Eau Claire River Valley in July 1919. (Edwards, 1919)

The North-eastern portion of the County consists of Glacial River Outwash/Floodplain which migrates through the edge of a transition area to the Driftless Area of the County as you move South and Southwest. Soil types and topography mirror this transition with the sandiest soil generally in the North and North East (and adjacent to the large riverine areas), migrating to richer soils as you move towards the South and Southwest. Existing floodplain areas along the larger waterways of the Eau Claire and Chippewa River Watersheds continue to contribute sediment (mostly sand) to the impoundments therein.





**Figure 3: Municipalities of Eau Claire County, Wisconsin.**

The County covers an area of 419,200 acres, or 655 square miles. Municipalities within the County include 13 towns, 3 cities and 2 villages. The towns are: Bridge Creek, Brunswick, Clear Creek, Drammen, Fairchild, Lincoln, Ludington, Otter Creek, Pleasant Valley, Seymour, Union, Washington, and Wilson. The cities and villages include City of Eau Claire in the northwest part of the County, Altoona bordering on the east side of the City of Eau Claire, and three municipalities which run northwest to southeast across the County in a straight diagonal along US Highway 12 - Village of Fall Creek, City of Augusta, and the Village of Fairchild. Eau Claire County is bordered on the north by Chippewa County, on the east by Clark County, on the west by Pepin and Dunn Counties, and on the south by Jackson, Trempealeau, and Buffalo Counties.

The City of Eau Claire and the surrounding area in the Northwestern portion of the County is the largest population center and lies at the confluence of two major rivers (the Chippewa River and the Eau Claire River) and five major highways. According to the 2010 Census, townships in the County with the greatest density of persons per square mile are Washington, Union, and Seymour. These townships are in the northwestern portion of the County, adjacent to the metropolitan area including the cities of Altoona and Eau Claire.



	<u>1950</u>	<u>1960</u>	<u>1970</u>	<u>1980</u>	<u>1990</u>	<u>2000</u>
Urban	65.3%	63.9%	69.2%	71.5%	74.6%	77.3%
Rural Farm	16.7%	10.9%	6.5%	5.0%	3.1%	2.2%
Rural Non-Farm	18.0%	25.2%	24.4%	23.5%	22.3%	20.6%

Source: 2000 Census; Totals may not equal 100% due to rounding. 2010 Census data not yet available.

**Figure 4: Eau Claire County's Urban-Rural Population Distribution**

About 90% of the County's population lives in this urbanized corner of the County. Densities in the eastern portion of the County are the lowest (Wilson, Otter Creek, and Fairchild) where much of the land is in agricultural production or County Forest. Since 1950, there has been a steady increase in the percentage of Eau Claire County residents living in urban areas. The percentages of those living on farms and those living in rural non-farm settings were nearly equal in 1950. As Figure 4 indicates, the percentage of the population living in rural non-farm settings increased dramatically from 1950 to 1960, and then has declined slightly thereafter. However, the actual number of residents in rural non-farm homes has steadily increased as the overall population of the County has increased.



**Figure 5: A typical rural Eau Claire County late fall landscape comprised of rolling hills, low wetlands, ridgetop forest lands, and rural farmsteads.**

## Geology and Topography

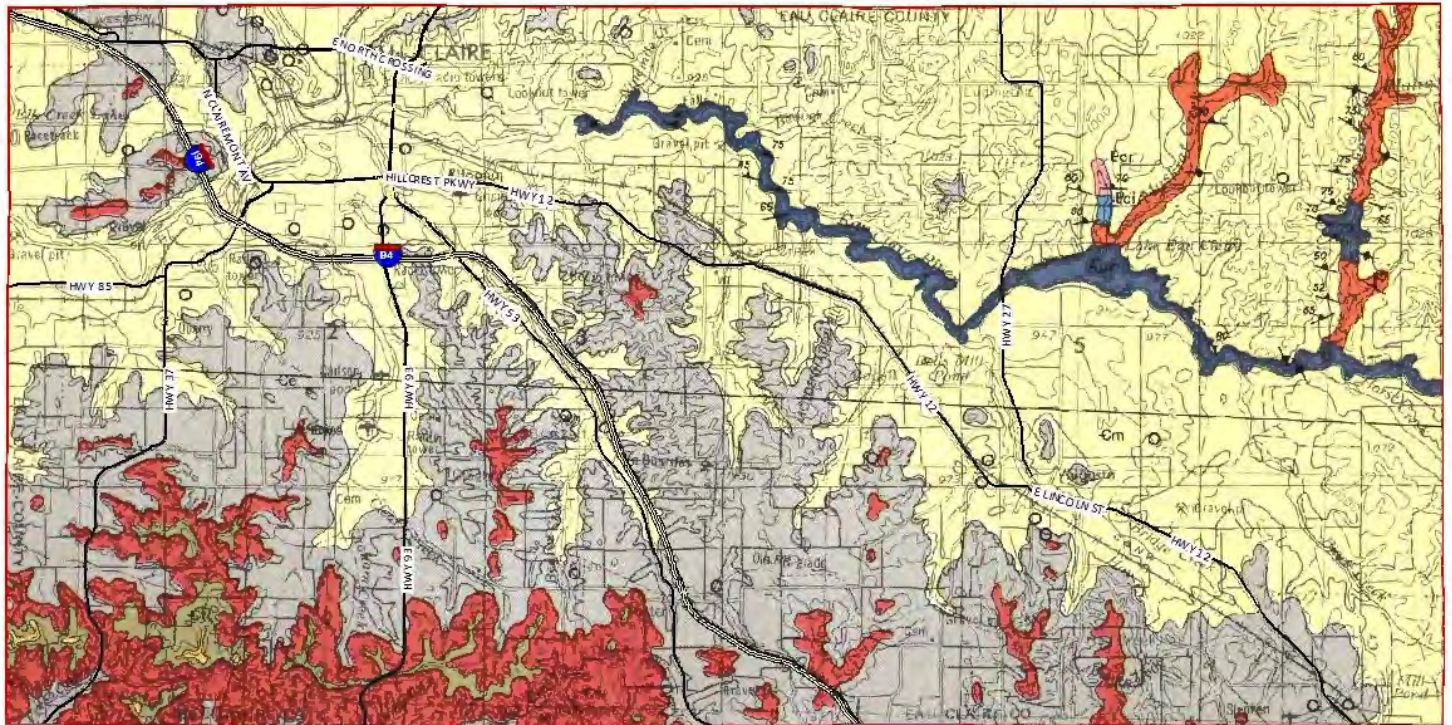
Eau Claire County is a transitional area between the glacial drift area to the north and the unglaciated Driftless Area to the south. The county's topography can be characterized as an irregular plain, which reflects this transition. In the south - southwestern part of the County, the surface of the land consists of open hills with steeper slopes. The rest of the County is generally rolling with floodplain terraces evident along the river systems. The mean elevation ranges from 750 to 1,000 feet above sea level in northern Eau Claire County to 1,000 to 1,250 feet above sea level in southern Eau Claire County.



**Figure 6: Topomosaic (USGS topographic map overlay on shaded relief) of Eau Claire County**

The northern and eastern parts of the County are generally level and quite flat, but are occasionally interspersed with razorback ridges and isolated outlying hills. The Chippewa River passes through the northwestern part of the County, while the Eau Claire River passes through the eastern and north-central part of the County. These rivers and their tributaries have extensive flood plains and are often flanked by postglacial terraces. Not only do the two rivers dominate the natural scene, they also account for most of the surface water. Their flood plains are sites of major urban clusters which account for over three-fourths of the County's population. In the south, or Driftless Area, the terrain is far more severe and rugged. Loess deposits are common on the uplands.



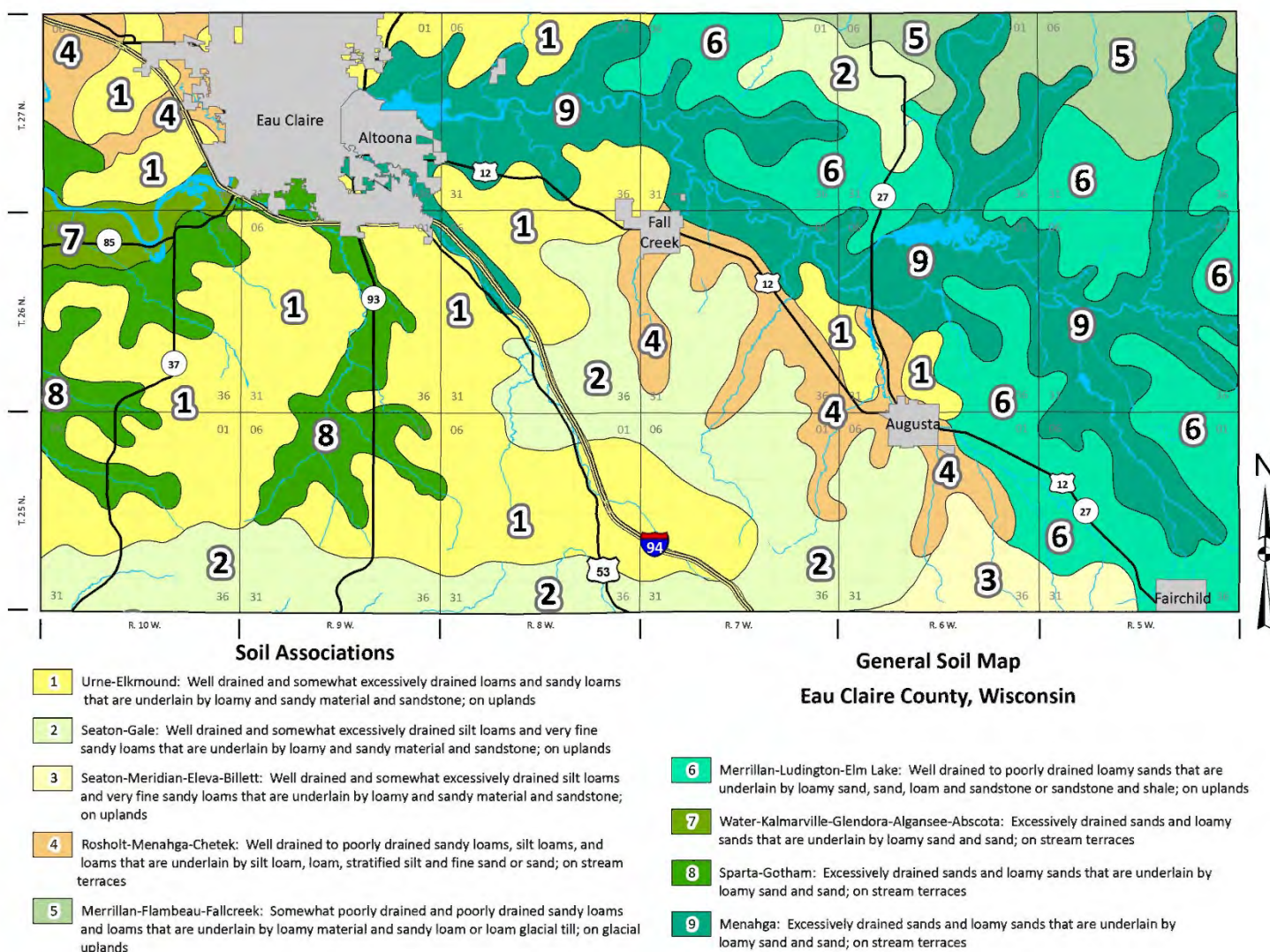


**Figure 7: Bedrock Geology of Eau Claire County, Wisconsin (Brown, 1988)**

The bedrock geology of the County is from the upper Cambrian period. This period is chiefly characterized by fine to coarse-grained sandstone and mainly comprised of the following groups and formations (from highest in elevation to lowest in elevation): Trempealeau Group including the Jordan and dolomitic formations (orange), Tunnel City Group (brown), Eau Claire Formation (grey), Woneewoc Formation (red), and Mt. Simon Formation (yellow). There are also some dolomitic and shale bed inclusions in the County as well as significant riverine deposits along the Eau Claire River.

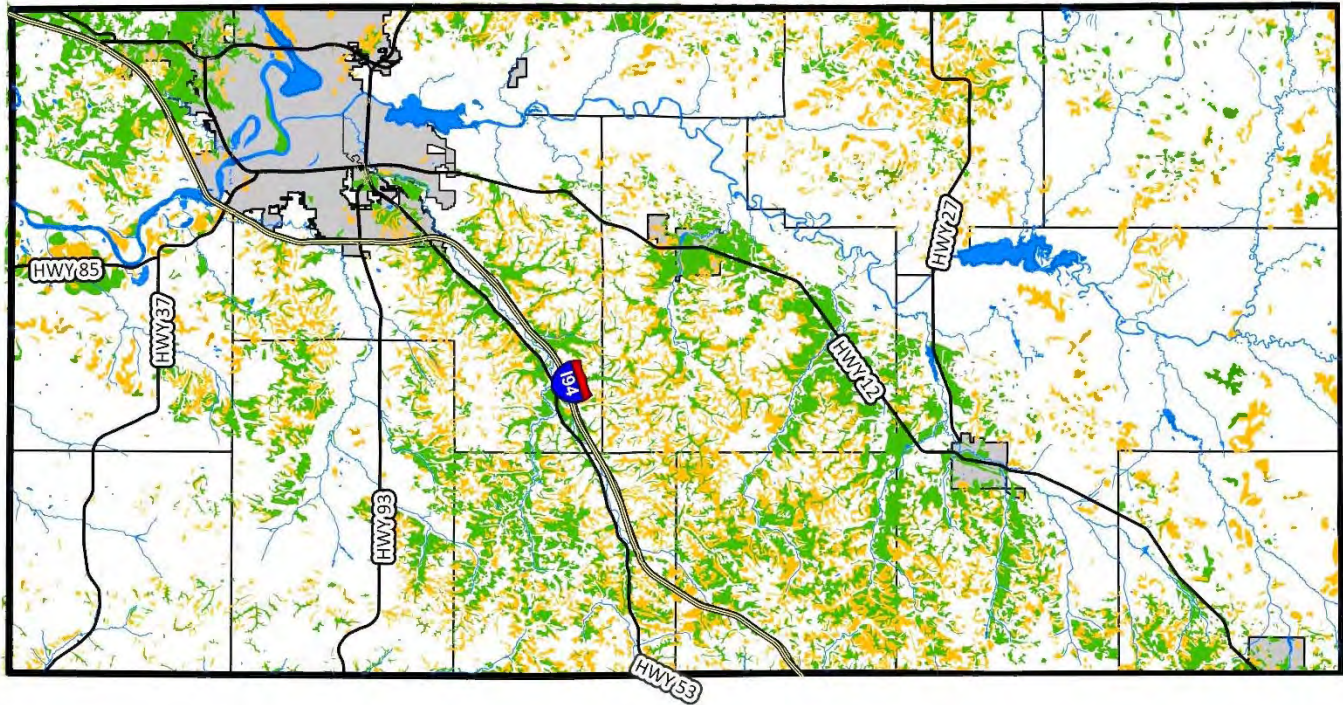


## Soils



**Figure 8: General Soil Map for Eau Claire County**

The 1977 Eau Claire County Soil Survey originally identified seven soil associations. Current national soil mapping has split, combined, and re-named some of these soil associations, but Eau Claire County has yet to be re-mapped to these standards. This map is a delineation of the current nine soil associations. Of these nine, six are sandy loam ranging from excessively drained to poorly drained soils. These soil associations (Urne-Elk Mound, Menahga, Sparta-Gotham, Merrilan-Flambeau-Fall Creek, Merrilan-Ludington-Elm Lake, and Water-Kalmarville-Glendora-Algansee\_Abscota) will be found along streams and rivers, wet depressions, and ridges and valleys. The Seaton-Gale, Seaton-Meridian-Eleva-Billet, and Rosholt-Menahga-Chetek soil associations are silt loams that have the greatest potential for crop productions. The majority of this soil type is found in the Central and Southern parts of the County. This also correlates to the main farming area of Eau Claire County.

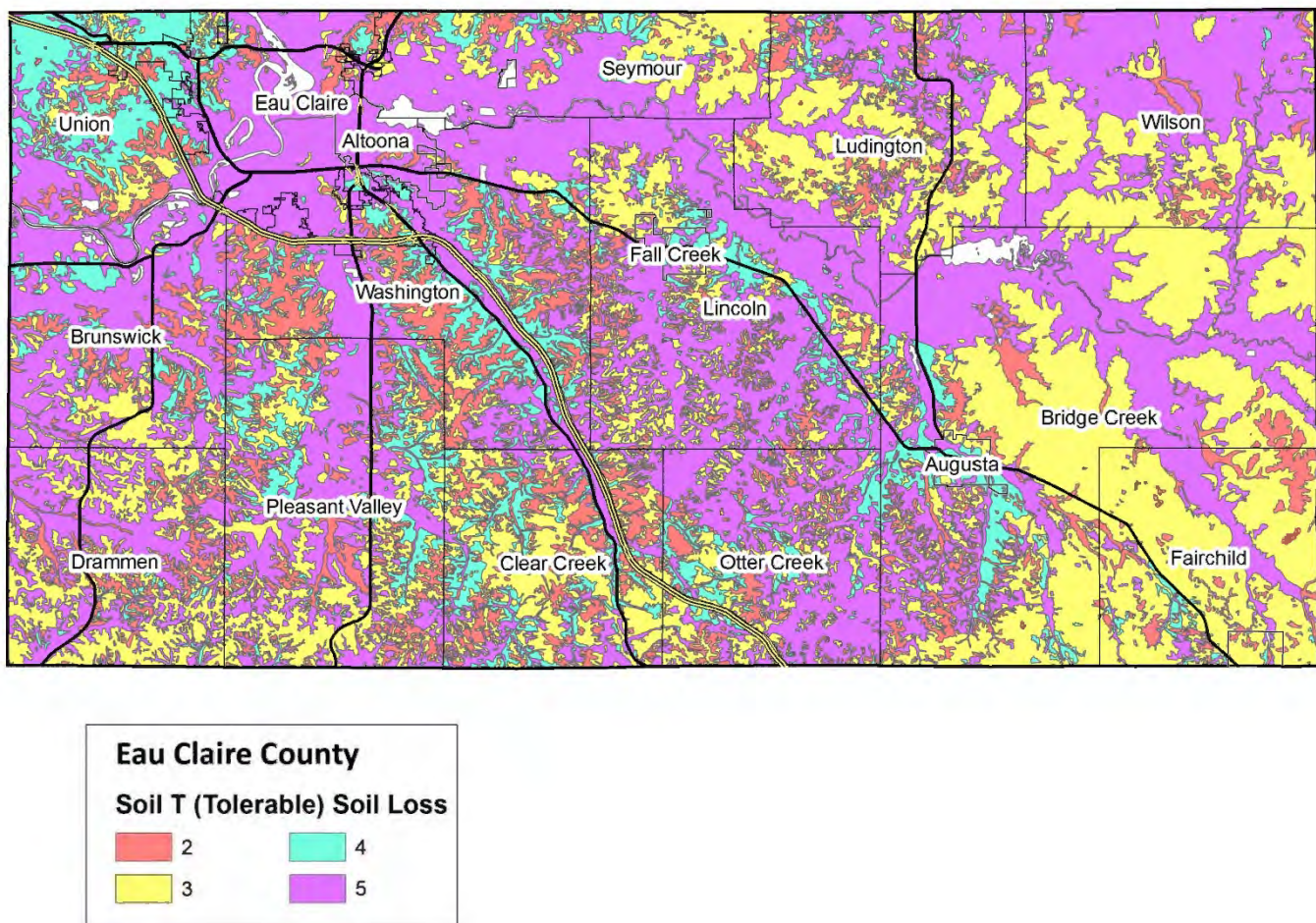


**Figure 9: Prime Farmland Soils in Eau Claire County.**

The yellow in the above map indicates areas with farmland of statewide significance, as defined by the state, and the green indicates areas of prime farmland. Much of the existing farmland is located in these key areas of the County.

Soil Capability classes are used to relate limitations and needed conservation practices and require careful management to protect these soils. Having a majority of soil in Classes III and IV points out the need for conservation plans with landowners for management purposes but also to meet Tolerable soil loss limits (also known as “T”). Although soil building practices are encouraged, tolerable soil loss is a measure of the maximum allowable soil loss, based on soil characteristics, to minimize long term net loss of a healthy soil resource.





**Figure 10: Tolerable Soil Loss in Eau Claire County**

Farms zoned as exclusive agriculture under the Farmland Preservation Program (part of the Working Lands Initiative) may receive the tax credit. There are a limited amount of agreements remaining that will expire as part of this period, but are still eligible to receive the tax credit until they expire. Eau Claire County previously had over 300 farms in the program but has seen a drop in participation with 39,136 acres of that remaining. Even without active participation in the farmland preservation tax credit; lands zoned as exclusive agriculture have sufficient restrictions to restrict land division options. The Land Conservation Division monitors compliance with “T” and the other nonpoint performance standards and requires participants to have conservation plans that meet “T” for their lands. Staff completes status reviews on at least 25% of the participant properties each year. These requirements, as well as the requirements for soil loss reduction as outlined in the Storm Water Management and Erosion Control Ordinance, have been beneficial in reducing soil loss in Eau Claire County.



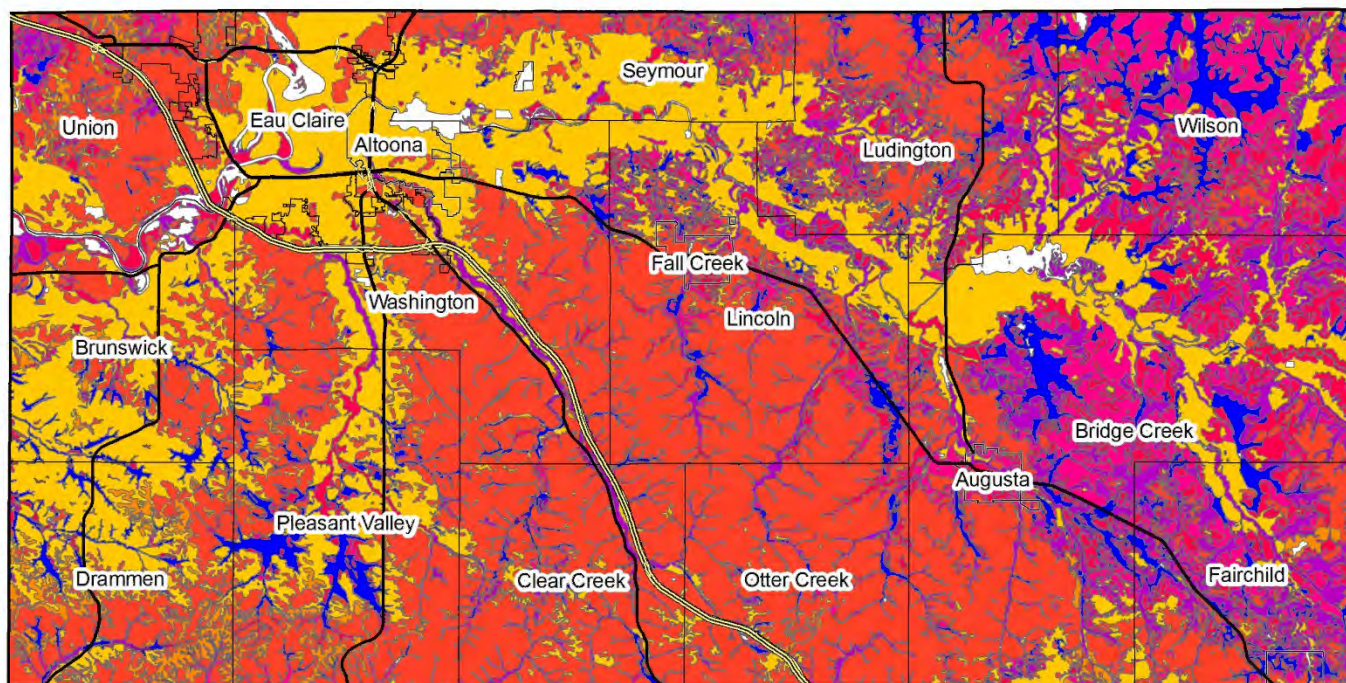


Figure 11: Drainage Classification of Soils in Eau Claire County.

There are areas of concern for excessively drained soils throughout Eau Claire County which can threaten water resources. There are also significant issues in several areas associated with very poor drainage in areas best suited to wildlife habitat, recreation, pasture, and/or woodland uses.

Soil characteristics county-wide can have cause for concern with High Erosion Potential regardless of slope or grade. Severe limitations and poor suitability soils do exist throughout the County and site specific soil borings and site assessments should be completed to determine feasibility for more intensive land uses including but not limited to buildings or other developments.

## Land Resources

Of the 645 square miles (419,200 acres) of land comprising Eau Claire County, agriculture accounts for about 40% and another 40% is forestland. Developed land covers approximately 20% and water makes up about 1% of total land area in the County. In general terms, forestland dominates two areas of the County: 1) in the east and north portions of the County along the main stem of the Eau Claire River, and 2) in the steepest hillsides of the southwestern (Driftless) part of the County. Farms dominate the central and southern portions of the County and stretch from west to east all along the southern border. Our densest developed area surrounds the City of Eau Claire. Major new development is found along the Highway 93 corridor heading south out of the City of Eau Claire. Other populated areas follow the Highway 12 corridor southeast to the Village of Fall Creek, City of Augusta, and Village of Fairchild.

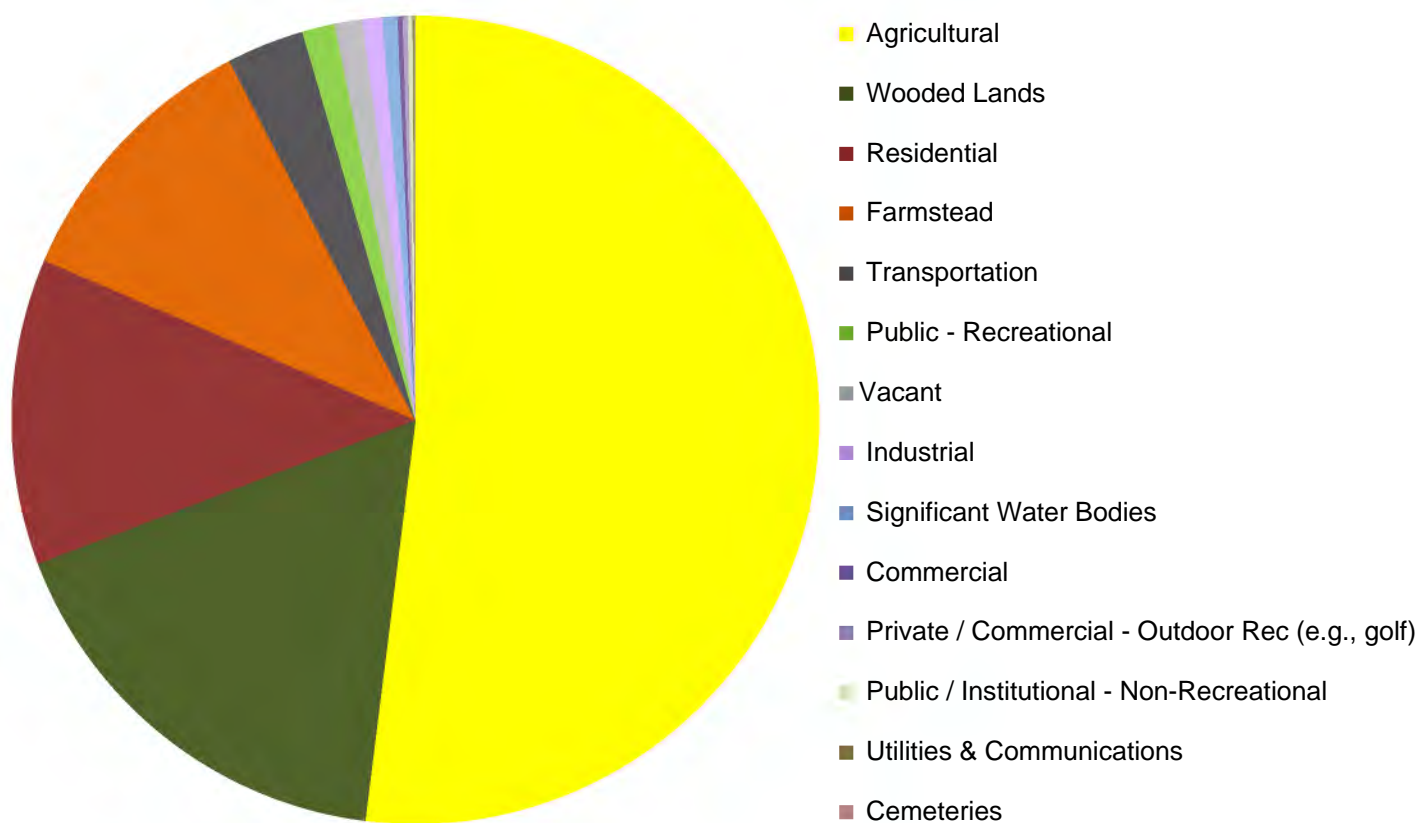


Figure 12: Existing Land Use for Private Lands in Eau Claire County (excludes Cities, Villages, and County-owned lands). (Eau Claire County Comprehensive Plan)



The first zoning code was adopted by the County on May 12, 1934. The last comprehensive zoning amendment occurred in 1982 to reflect recommendations from the last land use plan developed for the County in 1979. The zoning code has been adopted by the following nine townships: Brunswick, Clear Creek, Drammen, Lincoln, Otter Creek, Pleasant Valley, Seymour, Union and Washington (Figure 1.2). While not all towns have adopted the Comprehensive Zoning Ordinance, the Eau Claire County Sanitary, Shoreland, Floodplain, Stormwater & Erosion Control, Nonmetallic Mining Reclamation, and Subdivision Ordinances, and the State of Wisconsin Uniform Dwelling Code, are in effect in all towns. The Shoreland Ordinance applies to all properties within 1,000 feet of a lake or pond and 300 feet of a river, stream or creek. The five incorporated municipalities all maintain their own separate zoning code. The zoning code is managed and implemented by the Land Use Division of the Department of Planning and Development.

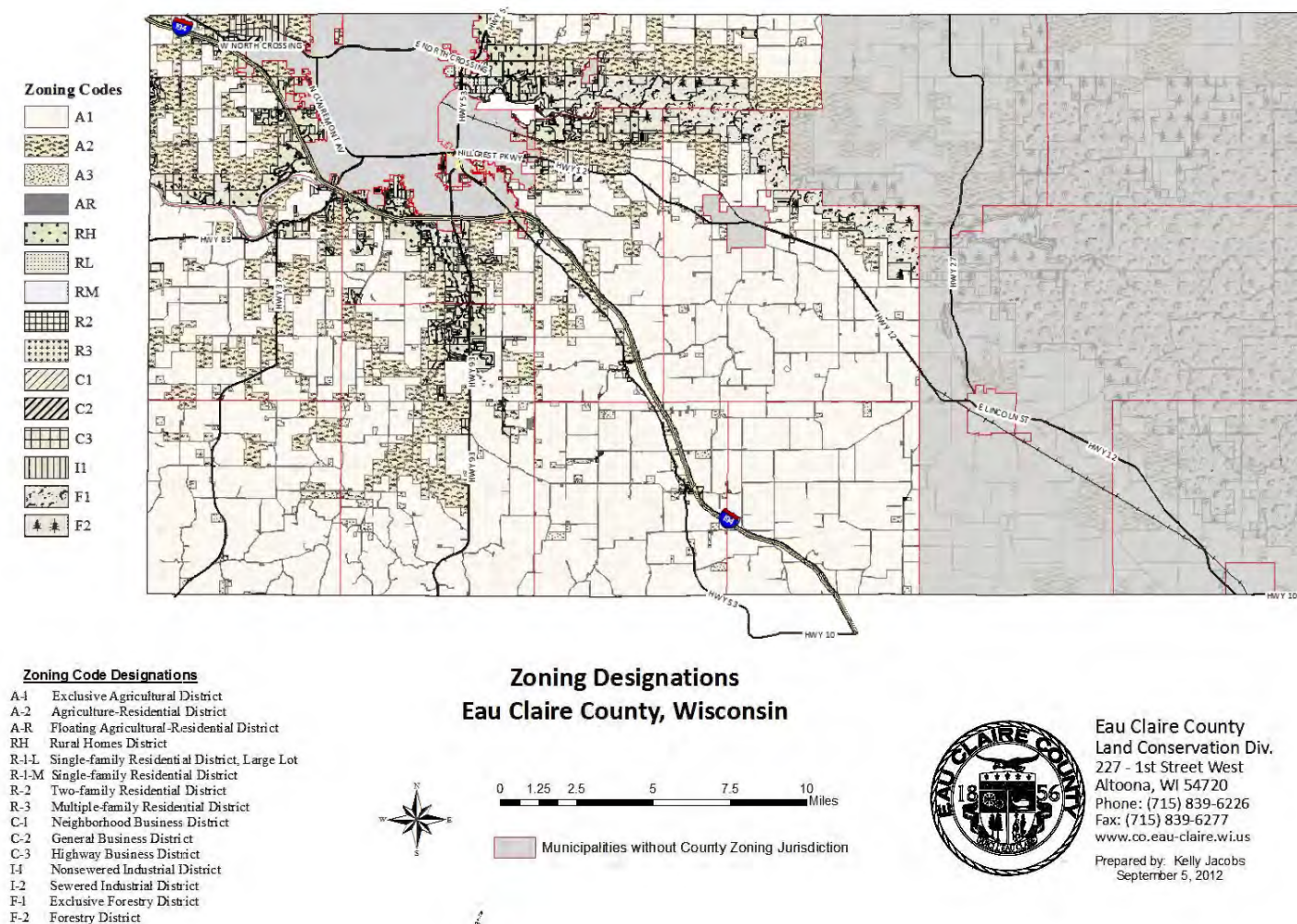


Figure 13: Zoning Code Designations for Eau Claire County.

## Forestland

Private landowners have the opportunity to enroll in voluntary DNR forest management programs and actively manage their woodlands. Those enrolled manage their properties in accordance with a Forest Comprehensive Land Use Plan on those properties and in exchange receive property tax benefits. In 2012 (at the time of LWRM plan drafting), the Forest Crop Law (FCL) had 440 acres remaining enrolled in the program in Eau Claire County. Managed Forest Law (MFL) participants had 7,533 acres “open” to public access (24% of the total agreements were in this classification) and 23,225 “closed” to public access (76% of the agreements in this classification). The first MFL agreement in Eau Claire County expired at the end of 2011; however, of those agreements that expire, approximately two-thirds were renewed by the landowners. New entries into the program continue to remain steady in comparison to previous years.



In addition to the 66,547 acres of privately managed wooded areas in the County, the County Parks and Forest Department manages over 52,000 of additional wooded acreage as County forest, ranking as the 15<sup>th</sup> largest County Forest in the state. Along with the forest, eight parks offer a wide range of recreational opportunities and are outlined in further detail in the Eau Claire County Outdoor Recreation Plan.

Beaver Creek Reserve is another County-owned property managed by the non-profit “Friends of Beaver Creek Reserve” as a nature preserve and environmental education center. With more than 400 acres of diverse habitat including upland woods, river bottom forests, wetlands, and savannah areas, Beaver Creek Reserve is home to a multitude of flora and fauna. This nature reserve is bordered by the Eau Claire River and two trout streams that run through the property.



Figure 14: Beaver Creek Reserve's Butterfly Garden.



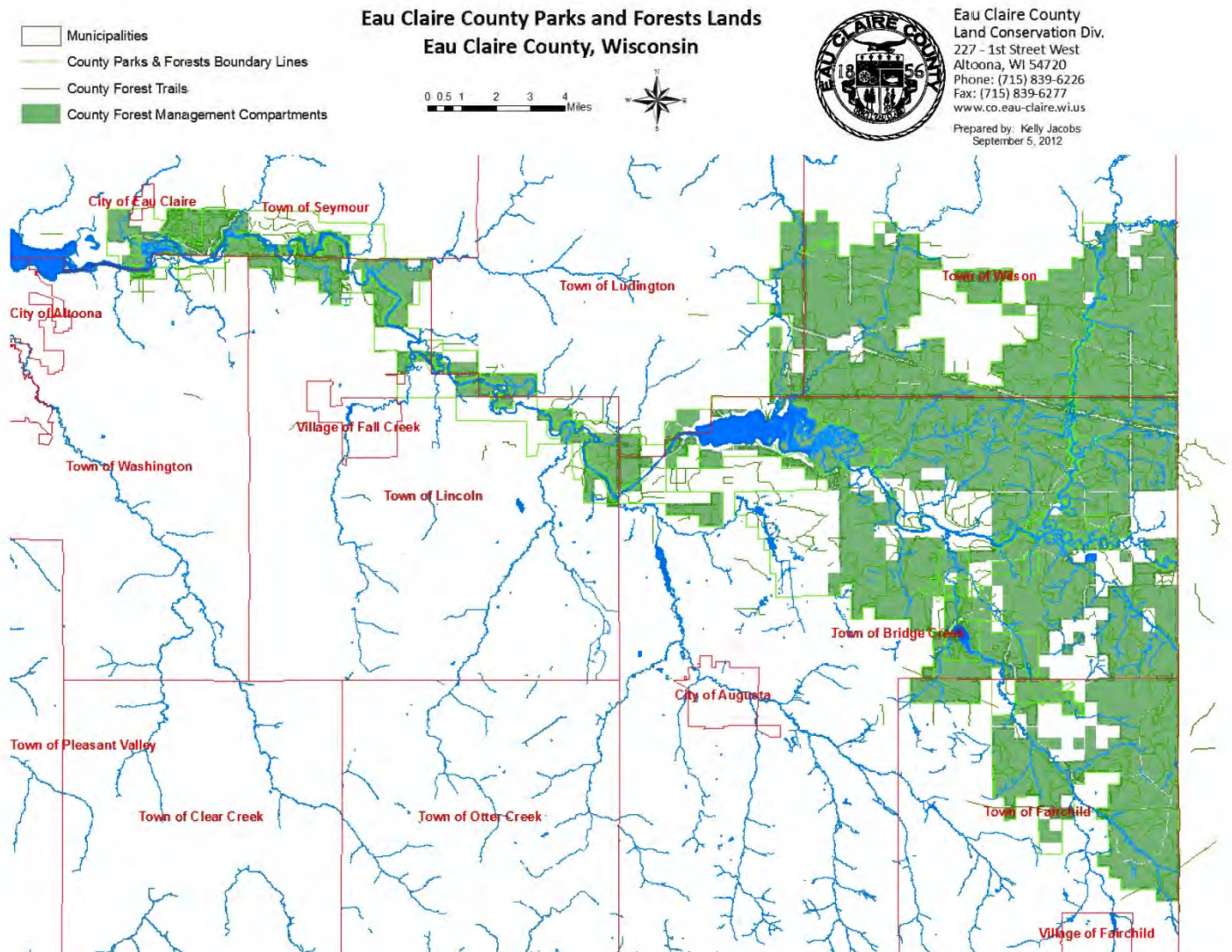


Figure 15: Map of County Managed Forest Properties.







## Agriculture

Agriculture remains a major economic factor even though Eau Claire is labeled an 'urban' county. The number of farms has increased according to the National Agricultural Statistics Service. Twenty years ago there were 886 farms, ten years ago there were 1,174, and 5 years ago in 2007 there were 1,223. As the number of farm numbers rise, the farm acreage has declined to an average farm size of 170 acres. While Eau Claire County used to be primarily a dairy county, that part of agriculture has diversified into various livestock enterprises, as well as a diversification of crops. For example, corn, oats, hay and soybeans still abound, but fruits, vegetables and flowers fill the stalls at the farmer's markets.

Overall, the total number of cattle is down from 15 years ago (44,000), but the numbers have stabilized at around 33,500 since 2002. Dairy cattle saw a dramatic decrease which started 20 years ago until about 10 years ago also. Those numbers, which are the number of mature dairy cows, has averaged 10,500 since 2001 (see figure below). Typically a dairy operation will have a one-to-one ratio of cows to young stock, so the county's entire dairy herd with young stock has stabilized at about 21,000 head.

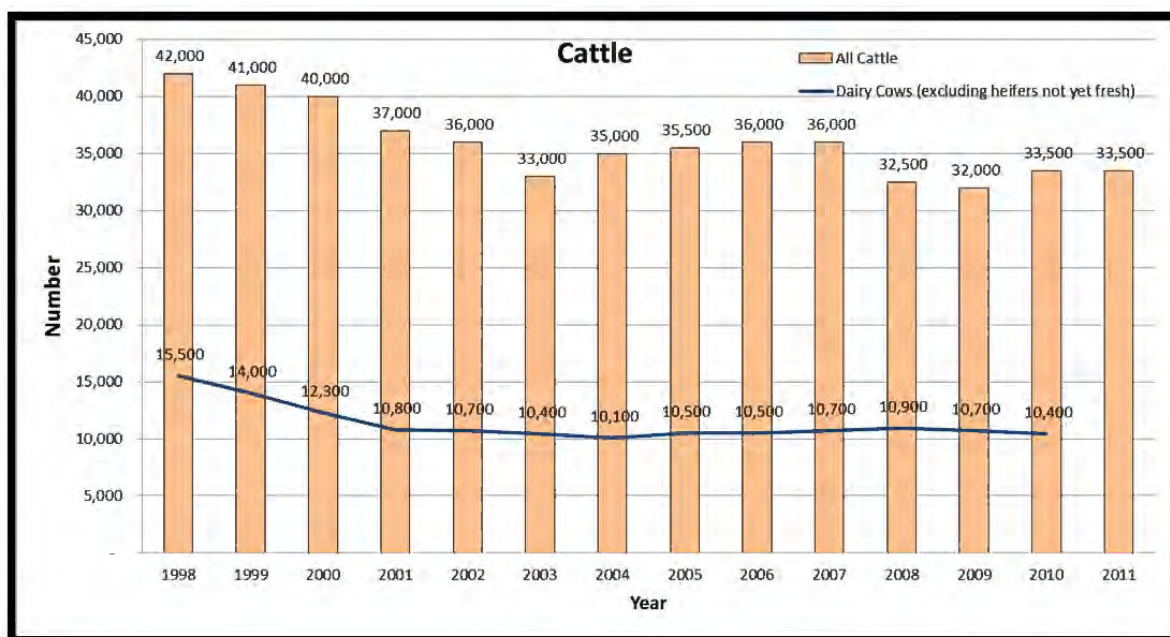


Figure 17: Total Cattle in Eau Claire County (WI Agricultural Statistics)

One trend within the cattle industry that has not stabilized is the number of dairy herds within Eau Claire County. Even though the number of dairy cows has remained relatively stable since 2001, the number of dairy herds continues to decline (see figure below). The number of herds was estimated at 304 in 2000, with the latest data showing a reduction by over 40% to 175 herds in 2011. These numbers reflect the trend to increased dairy herd size.

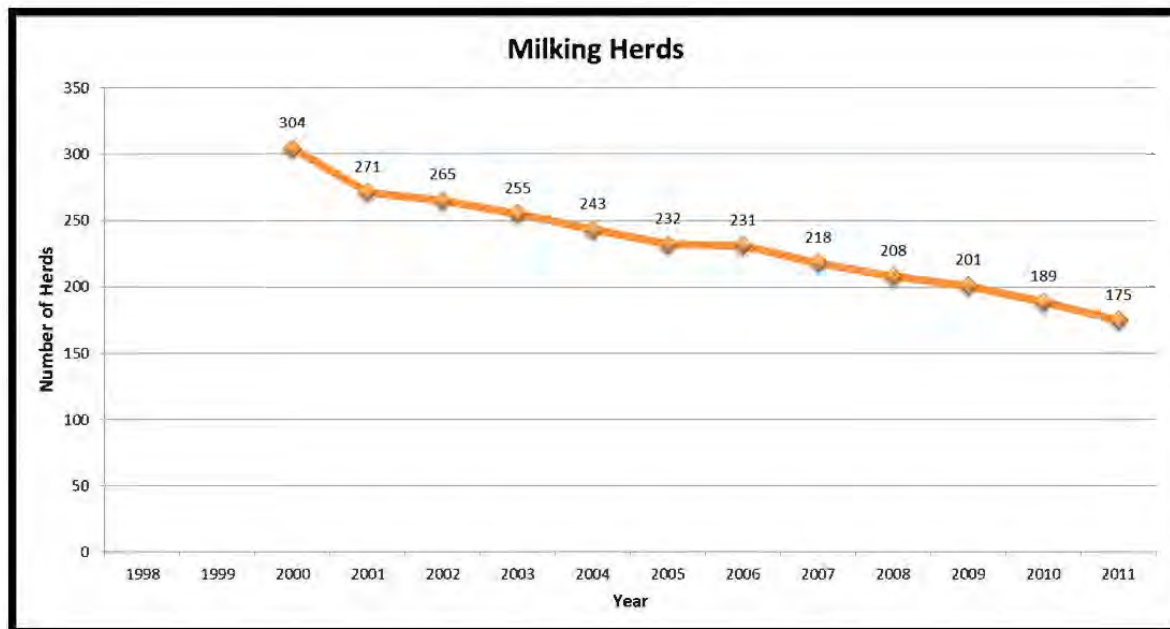


Figure 18: Number of milking dairy herds in Eau Claire County. (WI Agricultural Statistics)

There continues to be an increase in the number of horses, which are estimated at 2,144 as of 2007. Hogs and pigs numbers have remained steady at about 1,730 in 2007, with poultry layers at 3,911. Data for broilers and turkeys is unavailable. Eau Claire County is right in-between a major poultry industry and major turkey industry located in other counties. There are at least four large broiler barns in the county. Other livestock operations include sheep, bison, deer, elk, fish, goat, llama, and rabbit.

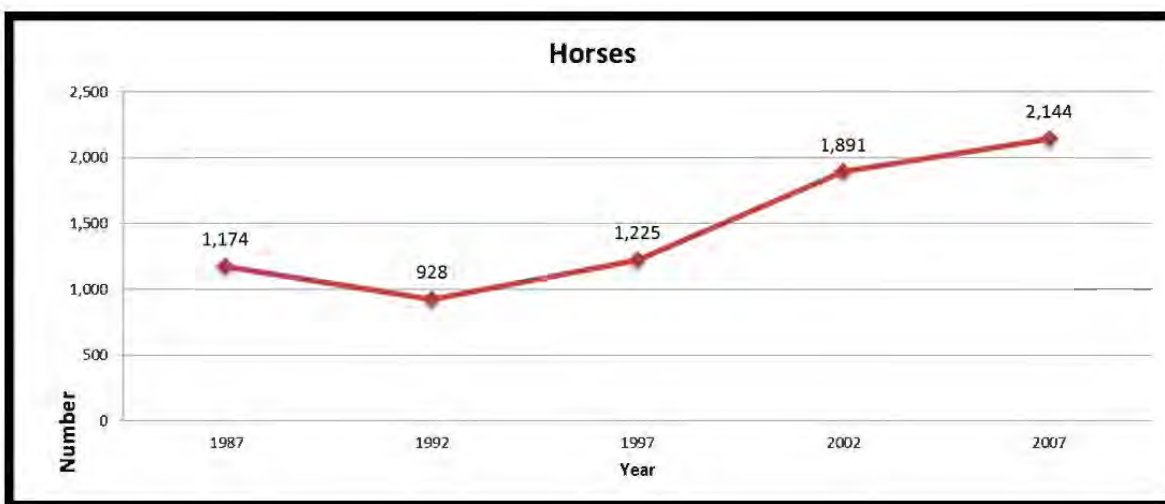


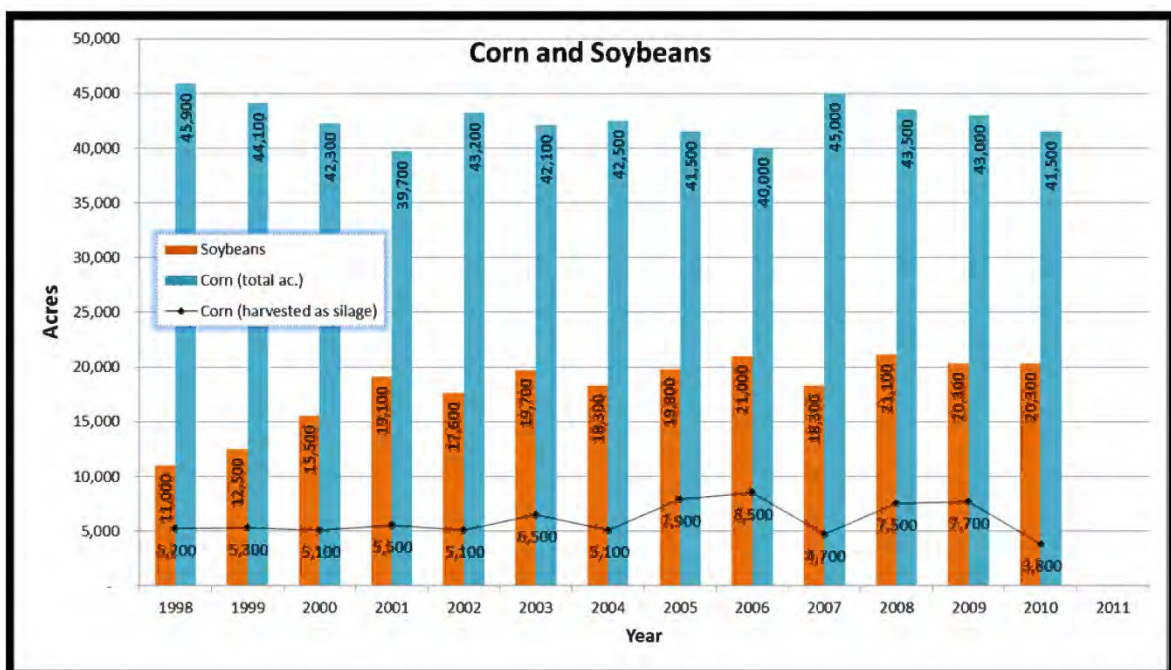
Figure 19: Horse numbers in Eau Claire County have nearly doubled in the past 20 years. (National Agricultural Statistics Service)

It is estimated that about 100 Amish farms raise livestock and approximately 200 hobby farms have livestock.

**Figure 20: Eau Claire County has a large Amish population in mainly the Eastern portion of the County.**



Corn, soybeans, oats, and hay are Eau Claire County's primary crops. Corn is the leading crop in terms of acres planted, averaging about 42,000 acres in the past 10 years. Soybean acreage has increased until 2001, following the same timeline as the decrease in dairy cattle numbers. Soybean acres have stabilized near 20,000 acres in the past 10 years.



**Figure 21: Major row crops in Eau Claire County. (WI Agricultural Statistics)**



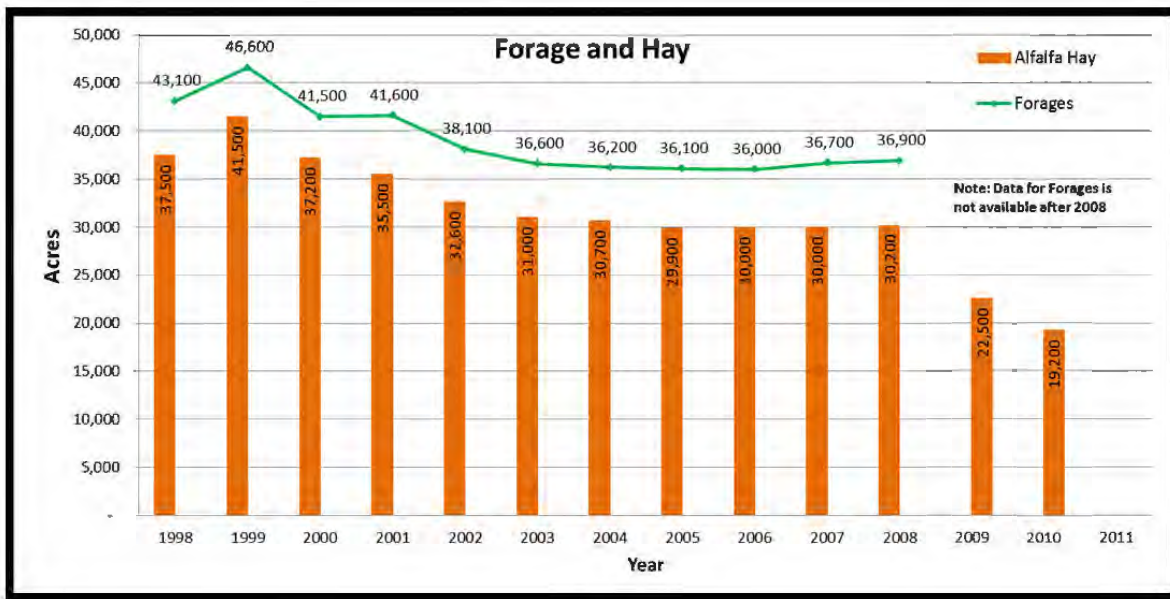


Figure 22: Forage crops in Eau Claire County. (WI Agricultural Statistics)

The trend for forages has followed the cattle trends; falling until about 2003. Forages have since stabilized at about 36,500 acres for all forages (see figure above). (The data for all forages is no longer available from the Wisconsin Agricultural Statistics since 2008. Data is also shown for alfalfa hay, but the data for 2009 and 2010 may now follow a different criteria, though this is not evident from the source.)

Fruits and vegetables have found increased demand in the City of Eau Claire, which offers several Farmers Markets throughout the spring, summer and fall. Fruits such as apples, blackberries, blueberries, grapes, raspberries and strawberries are all grown here. A huge assortment of vegetables is offered. Our Hmong population accounts for 45% of the vendors at the Eau Claire Farmers Market, and they grow a variety of crops on many farms close to the city.



### *Urban*

The City of Eau Claire is the largest population center in the county and west central Wisconsin and has seen a fairly average growth rate. The population density is greatest in the City and the townships that border the City following the main transportation corridors. The County also owns and manages some urban centers including not only the Courthouse, but also the Chippewa Valley Regional Airport, the Eau Claire County Exposition Center, and several other office buildings and shop facilities.

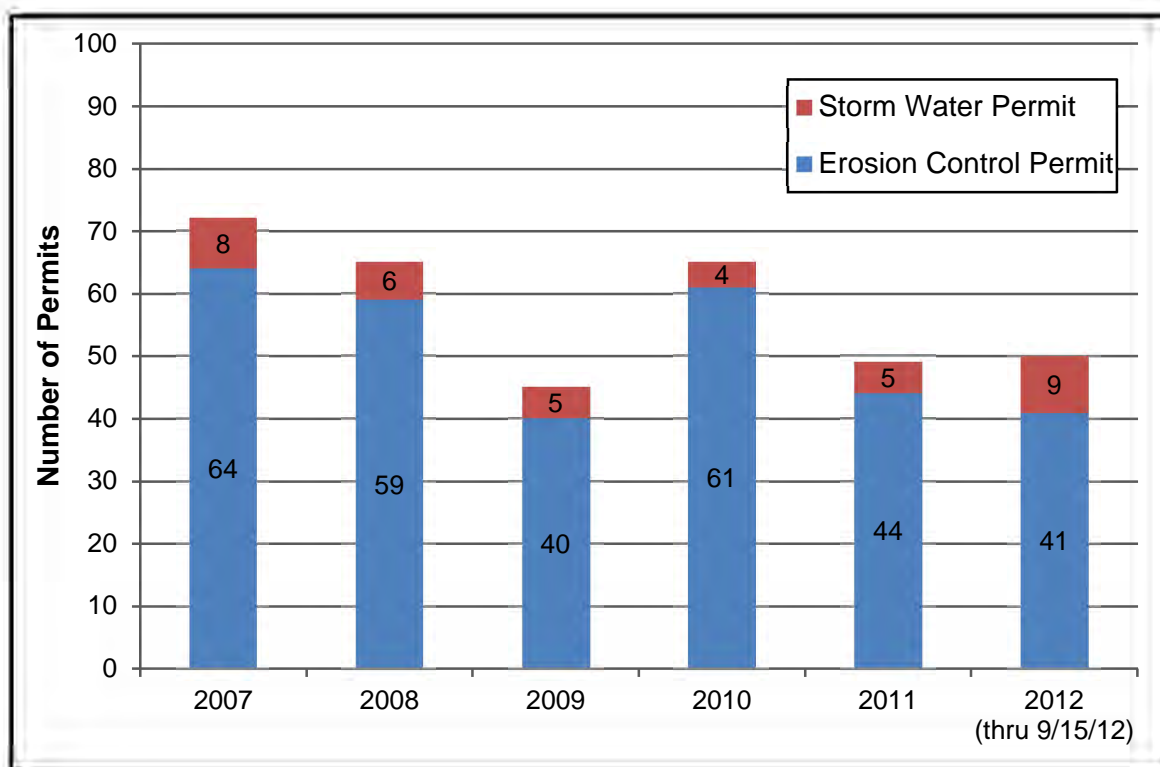
Education and health care are the largest employment sectors in the County. With a State University and Technical College plus three local hospitals, six of the top ten employers are in these two fields. Menards, Inc. is the largest employer in the County. The labor force includes many residents from outside the county who commute to the City of Eau Claire to work.

Eau Claire County and Chippewa County to the north are considered part of a metropolitan statistical area (MSA). As a result, a large part of our LCD staff time does address storm water run-off issues and construction site erosion control. Between 1991 and 2006, Eau Claire County completed review/approval of 1,797 erosion control permits for new housing and 273 residential and commercial storm water plans as part of the DNR Lowes Creek Small Scale Watershed Project.



Figure 23: Subdivision Development off of Highway 93 south of Eau Claire (2011).

The Storm Water Management and Erosion Control Ordinance (County Code Chapter 17.05) was enacted in 2007 to protect county soil and water resources from urban nonpoint and point source impacts. This comprehensive ordinance draws authority from Wis. Stat. Sections 59.693, 92.07(6), 92.07 (15), and Wis. Stat. ch. 236. Typically, plans are required for, but not limited to, all new business and residential developments. Erosion Control Permits are required for any activity that disturbs or develops an area of 4,000 sq. ft or more, excavates or fills 400 cu. yds. or more, constructs new roads/ accesses (public or private), disturbs 20% or more slope, or otherwise is located in an environmentally sensitive area. Stormwater Permits are required for a subdivision plat, Certified Survey Map (CSM), any land development that adds at least 0.5 acres of impervious surfaces as part of a common plan of development, or any land development with the potential to affect an environmentally sensitive area or adjacent property owner. All Plan Reviews and Site Inspections are performed by the Land Conservation Division Staff.



**Figure 24: Permits Reviewed under Eau Claire County Storm Water Management & Erosion Control Ordinance since initial ordinance implementation.**

## Future Land Use

The Eau Claire County Future Land Use Map, which depicts the desired pattern of land use and establishes the County's vision and intent for the future as identified through the County Comprehensive Planning Process. The Future Land Use Plan identifies areas of similar character, use, and density. Furthermore, this land use plan may be implemented through zoning, but also may be implemented through a number of fiscal tools, regulatory tools, and non-regulatory tools including voluntary land management and community development programs. The future land use plan is neither a prediction nor a guaranty. The County does not assume that all growth areas depicted on the Future Land Use Map will develop during the next 20 years, nor do applicable Towns. Instead, the Future Land Use Map depicts those areas that are the most logical development areas based on the goals and policies of this Plan, local community plans, overall development trends, environmental constraints, proximity to existing development, and the ability to provide future services.

### Future Planned Land Use

- County Forest
- Park & Recreational
- Rural Preservation
- Public & Institutional
- Downtown Mixed Use
- Recreational Commercial
- General Commercial
- General Industrial
- Industrial/Commercial
- Light Ind/Commercial Mix
- High Density Residential
- Low Density Residential
- Urban Mixed Use
- Mixed Use Neighborhood
- Planned Neighborhood
- Rural Hamlet
- Rural Industrial
- Rural Commercial
- Rural Residential Mobile Home
- Rural Residential Cluster
- Rural Residential
- Rural Transition
- Rural Transitional
- ROW
- Transportation
- Water

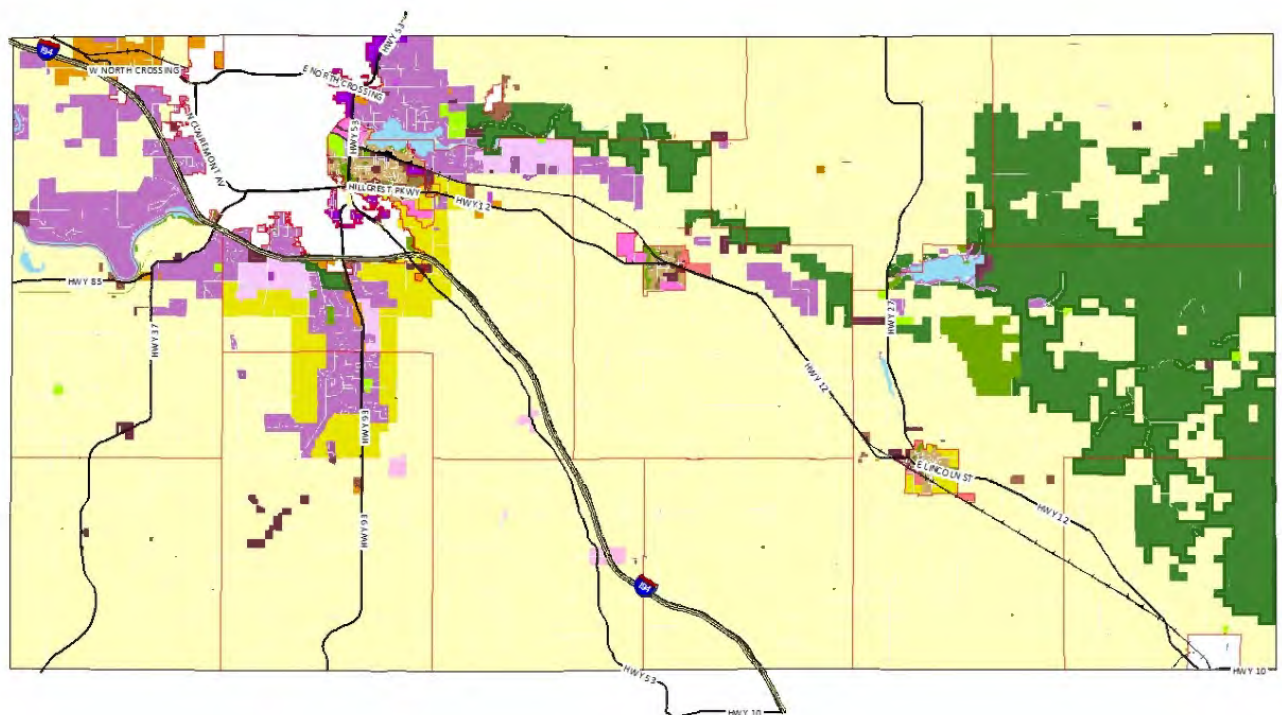


Figure 25: Future Planned Land Use for Eau Claire County. (Eau Claire County Comprehensive Plan)

### *Land Based Economy*

Both the agriculture and timber industries originally helped to drive Eau Claire County's growth. Over time manufacturing took more of the role that the lumber industry formerly filled; however, agriculture stayed strong throughout the period and the timber industries continue to persist in our thriving communities.



**Figure 26: View looking down Highway 37 with farmstead on August 2, 1917. (Hotchkiss, 1917)**

Agriculture is still a steady economic contributor accounting for \$1.1 billion in business sales every year. Eau Claire County farmers own and manage 203,375 acres (50%) of the County's land where 90% of all Eau Claire County farms are owned by individuals or families. With an agricultural industry mainly dominated by dairy, Eau Claire County farmers raise everything from meat goats to milking sheep to apples, grapes and vegetables. The diverse population has created specialty food niches in addition to a strong and growing demand for locally produced food and food products. (University of Wisconsin - Extension, 2011)





**Figure 27: Agriculture continues to be an important part of Eau Claire County's economy.**

The Sand and Gravel Mining industry has been a part of Eau Claire County since its establishment and continues to provide needed resources to residents and to others outside the County. The recent addition of the “Frac sand” industry (also known as “Silica Sand” or “Manufacturing Sand”), is a newer mining land use which is usually at a larger scale than many of the mines previously developed in the County. The Storm Water Management and Erosion Control Ordinance does require the installation of best management practices as outlined in an erosion control and/or storm water management plan for each site. LCD staff also provide the technical review for nonmetallic mine reclamation plan permitting.



**Figure 28: A newly constructed Frac Sand Processing Facility in rural Eau Claire County.**

## Water Resources

This is River Country. In annual County-wide budget surveys, the County residents usually identify water quality as one of the top concerns as compared with all other services provided by Eau Claire County.

Nearly all surface water resources of the County are in the Lower Chippewa River Basin. The Eau Claire River is the dominant water feature, along with its many tributaries, and runs from east to west predominantly in the northern part of Eau Claire County. The North Fork of the Eau Claire River originates in Taylor County and travels for 48 miles before joining the main stem. The South Fork of the Eau Claire River has its beginning in northern Clark County and flows for 40 miles before joining up with the North Fork. From this point, the main stem flows for another 34 miles before it reaches the mighty Chippewa River. It's watershed size is estimated at 811 square miles. DNR notes in the Lower Chippewa River Basin Plan that the Eau Claire River is one "of the last free-flowing segments of the 'big rivers' in the Upper Mississippi River Valley.

To the south, the Buffalo – Trempealeau River Basin has headwaters in Eau Claire County. It is in the Driftless Area along the southern border of the County. Eau Claire County's streams join the Buffalo River just inside Trempealeau and Buffalo Counties.

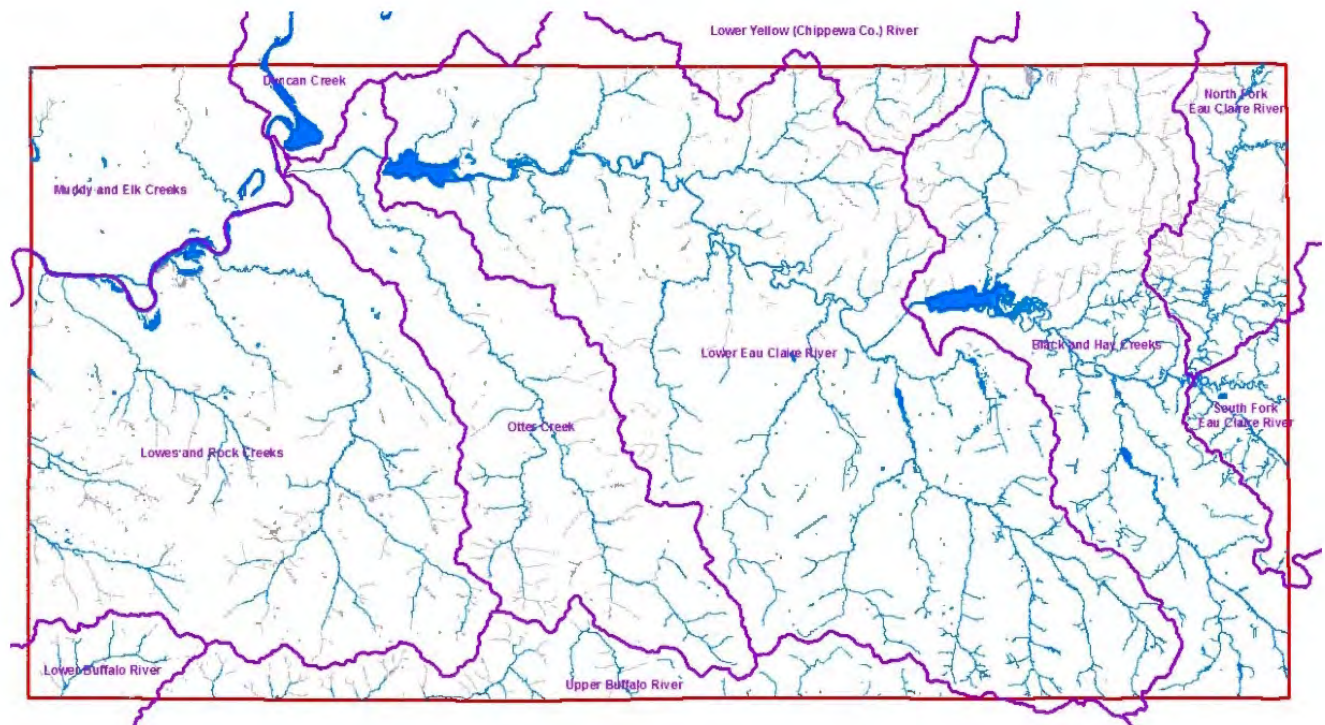


Figure 29: Surface Water Resources of Eau Claire County, Wisconsin



## Lakes and Impoundments

LAKE	ACRES	TYPE
Altoona Lake	840	Drainage
Cooley Lake	22	Seepage
Coon Fork Flowage	75	Drainage
Dells Millpond (Rodell)	75	Drainage
Dells Pond	739	Drainage
Eau Claire Lake	860	Drainage
Fairchild Pond	18	Drainage
Fall Creek Pond	17	Drainage
Half Moon Lake	132	Seepage
Powell Lake (Powers)	2	Drainage
Unnamed T27N R6W S02-02	30	Seepage

Figure 30: Table of Eau Claire County Lakes (WDNR, 1991)

Eau Claire County ranks 41<sup>st</sup> among 72 Wisconsin counties in total water acreage of lakes and the 51<sup>st</sup> in number of lakes, according to a Department of Natural Resources survey. The total water acreage of the County is 5,600 acres and consists of 20 lakes (approximately 3,000 acres). There are ten named lakes in the County and eight of them are man-made impoundments. Water impoundments account for about 90 percent of the total water acreage of the lakes. The number of impoundments (drainage lakes) relate to the glacial geology and mature river systems in the County.

Lakes Altoona, Fairchild, and Fall Creek have already formed Lake Districts and there is a pending request from Lake Eau Claire to form a District as of the time of this drafting. Coon Fork shoreline is entirely publicly owned and contained within the Coon Fork Lake County Park. Seven of these lakes have public access, with large ones having more than one access for recreational opportunities. Because a majority of lakes are impoundments, reduction and removal of sedimentation is a major challenge. Eau Claire County assisted Lake Eau Claire and Coon Fork Lake in drafting of their first Lake Management Plan utilizing DNR Lake Protection Grant funds. Assistance to Lake Districts and interest groups has been and continues to be important to Eau Claire County.



Figure 31: Fishing on Coon Fork Lake. (Parks Department)

Eau Claire County initiated a Lake Rehabilitation Program in 1990 and budgeted tax levy dollars for the purpose of working with our lakes in need of dredging, sediment removal, and shoreline stabilization. Over one million dollars has been allocated to the fund in the past 17 years to alleviate the cost of dredging Lakes Altoona, Eau Claire, and Fall Creek. Eau Claire County provides a 50% match to a Lake District or Association, who in turn is responsible for overseeing the dredging project. Although not as many county dollars are being dedicated as when the program was initially created, the County still does contribute funds periodically to the Lake Rehabilitation Program and continues to distribute the remaining funds to lake organizations.

Additional lakes and watershed projects will be sought out to address resource concerns and identify contributing sources including such potential projects as the Coon Fork Watershed Inventory Pilot Project, a Lake Management Plan for Lake Altoona, control of invasive species, additional inventory and drainage area characterization projects, and sediment reduction efforts.

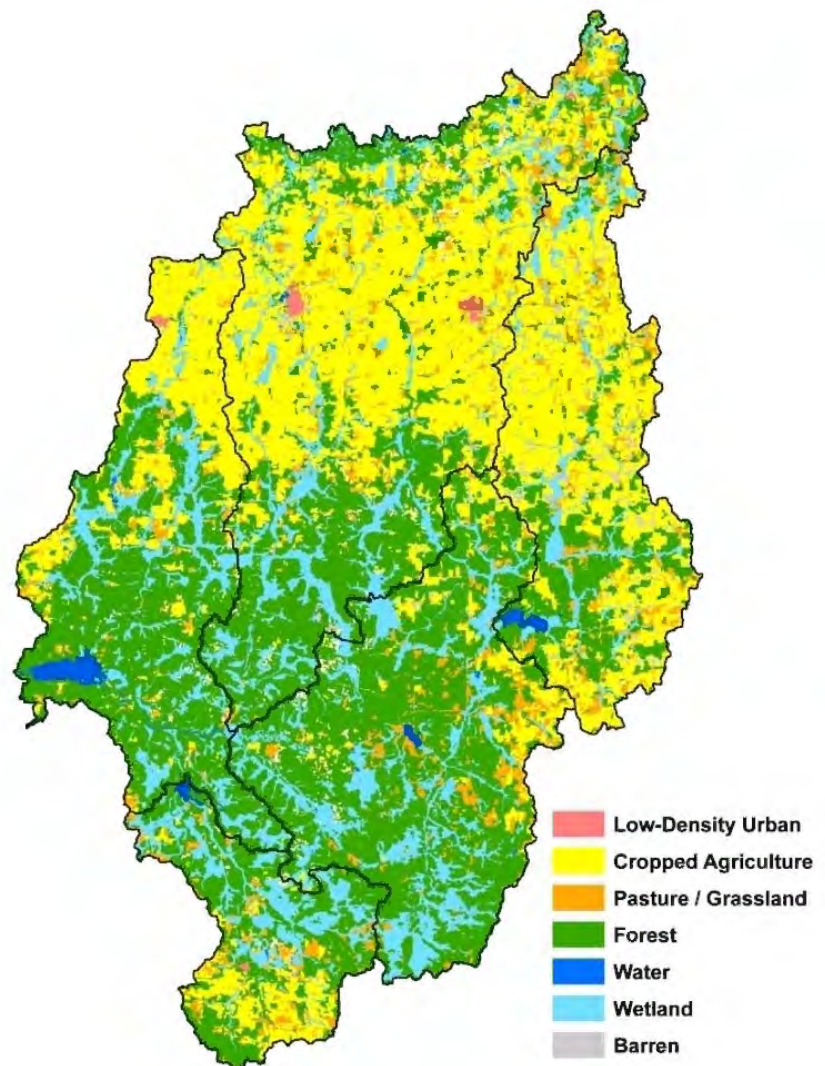


Figure 32: Land Uses within the Lake Eau Claire Watershed, developed utilizing a SWAT model, that assists in management decisions that will benefit the ecosystem health of Lake Eau Claire.



## *Stormwater*

Beginning in 1992, the Land Conservation Staff became state certified erosion control inspectors to ensure the reduction of erosion from construction sites for new one and two-family dwellings. The County and adjacent municipalities were required by DNR, in accordance with EPA requirements, to comply with federal storm water regulations. The LCD Staff became responsible for the storm water provisions in the County Code. Eau Claire County continues to be an MS4 designated municipality due to population density as defined in Wisconsin Statutes.

Area MS4 communities in Eau Claire County and throughout the Chippewa Valley, under the name of the “Chippewa Valley Storm Water Forum”, have gathered together in an outreach effort to educate residents on best management practices to help reduce stormwater inputs to our water resources.



**Figure 33: Eau Claire County Land Conservation Division Staff conducting a “create your own rain barrel” workshop with assistance provided by UW-Extension Natural Resource Educator.**

Development continues in Eau Claire County but with County-wide zoning, in effect in most municipalities, that is designed to protect the rights of all landowners. County Shoreland and Floodplain Ordinances are in place County-wide to reduce conflicts in those vulnerable areas as well. The very thorough Storm Water Management and Erosion Control Ordinance also ensures that our land and water resources throughout the County are protected from sedimentation and water resource impairment.

In addition to the County Storm Water Management and Erosion Control Ordinance, all landowners who disturb one acre or more of land are required to file a Notice of Intent with DNR under Subchapter III of NR 216, Wis. Adm. Code. Storm water from construction sites is viewed as a point source discharge to waters of the state under these requirements. Such activities must meet the requirements of NR 216.46, Wis. Adm. Code and NR 151.11 Wis. Adm. Code. Typical agricultural activities (including the planting, growing, cultivating, and harvesting of crops for human or livestock consumptions and pasturing or yarding of livestock as well as sod farms and tree nurseries) are exempt from both the County and State stormwater requirements, but agricultural facilities or structures (including barns, manure storage facilities, and barnyard runoff control systems) must comply with these state requirements. An agricultural building is also not required to meet the post-construction performance standards of NR 151.12, Wis. Adm. Code.

Residents of Eau Claire County are connected to the river and lake systems, regardless of where they live, work, and play. Much of the urban area in the Northwest part of the county is included in the Eau Claire Waterways Plan, developed to be consistent with the City of Eau Claire Comprehensive Plan. The Waterways plan states “the Chippewa and Eau Claire Rivers are leading an economic rebirth of the City of Eau Claire and the region” and identifies the following as its principles:

- honor the natural qualities of the water ecosystems
- think at the scale of the watershed
- connect the city to the waterways
- complete the greenway
- touch the water
- leverage development
- promote the image
- integrate surface water
- design thoughtfully
- raise awareness and build support
- communicate with art
- partner for success.

(Eau Claire Waterways Plan, July 10, 2012)



Figure 34: View from Phoenix Park of people "Fleauting" through downtown Eau Claire on the Chippewa River, with pedestrian bridge in the near background. (Andrea Paulseth for Volume One, 2011)

## *Water Designations*

The DNR has several classifications for water resources, which include: Trout stream Designations, Outstanding and Exceptional Waters, and Impaired Waters.

### **Trout Stream Designations**

Wisconsin trout streams are placed into three classes for fish management purposes:

- Class 1.** These are high quality trout waters, have sufficient natural reproduction to sustain populations of wild trout at or near carry capacity. Consequently, streams in this category require no stocking of hatchery trout. These streams or stream sections are often small and may contain small or slow-growing trout, especially in the headwaters. In Eau Claire County we have 25.6 miles of designated Class 1 trout streams.
- Class 2.** Streams in this classification may have some natural reproduction, but not enough to utilize available food and space. Therefore, stocking is required to maintain a desirable sport fishery. These streams have good survival and carryover of adult trout, often producing some fish larger than average size. In Eau Claire County we have 77.6 miles designated as Class 2 trout streams.
- Class 3.** These waters are marginal trout habitat with no natural reproduction occurring. They require annual stocking of trout to provide trout fishing. Generally, there is no carryover of trout from one year to the next. In Eau Claire County we have 71.5 miles designated as Class 3 trout streams.

(WI DNR, 2002)

## Outstanding and Exceptional Waters

Wisconsin has designated many of the state's highest quality waters as Outstanding Resource Waters (ORWs) or Exceptional Resource Waters (ERWs). Waters designated as ORW or ERW are surface waters which provide outstanding recreational opportunities, support valuable fisheries and wildlife habitat, have good water quality, and are not significantly impacted by human activities. ORW and ERW status identifies waters that the State of Wisconsin has determined warrant additional protection from the effects of pollution. These designations are intended to meet federal Clean Water Act obligations requiring Wisconsin to adopt an "antidegradation" policy that is designed to prevent any lowering of water quality – especially in those waters having significant ecological or cultural value.

ORWs receive the state's highest protection standards, with ERWs a close second. ORWs and ERWs share many of the same environmental and ecological characteristics. They differ in the types of discharges each receives, and the level of protection established for the waterway after it is designated.

Eau Claire County does not have any ORWs, but the following ERWs have been identified in Eau Claire County as follows:

<u>Waterbody Name</u>	<u>Portion Within ORW/ERW Classification</u>	<u>Status</u>
Beaver Creek	All	ERW
Clear Creek	All	ERW
Creek 15-2 T27N R7W	All	ERW
Creek 16-12 T27N R7W	All	ERW
Darrow Creek	All	ERW
Hay Creek	All	ERW
Sevenmile Creek	All	ERW
Lowes Creek	From Hwy 37 & 85 upstream to headwaters	ERW

(WI DNR, 2012)



## Impaired Waters

Impaired waters are also known as the “303(d) list” which is a derivative of the federal EPA listing of “threatened and impaired” waters. There are two 303(d) water bodies listed for Eau Claire County—Chippewa River and Half Moon Lake. (WI DNR) There are an additional two proposed water bodies for addition to the 303(d) list for phosphorus impairments – Lowes Creek and Otter Creek. If impairment continues on these listed water bodies, there is the possibility that these water bodies could move into a Total Maximum Daily Load (TMDL) process that would quantify reductions in inputs from the specified pollution sources within its corresponding watershed.

Official Name (Click for Details)	Local Name (Click for Map)	Start Mile	End Mile	WBIC	Water Type	County	Pollutant	Impairment	303 Status	Priority
<a href="#">Chippewa River</a>	<a href="#">Chippewa River</a>	37.58	58.84	2050000	River	Dunn, Eau Claire	PCBs	Contaminated Fish Tissue	303d Listed	Low
<a href="#">Chippewa River</a>	<a href="#">Chippewa R At Eau Claire</a>	58.84	60.05	2050000	River	Eau Claire	Unspecified Metals	Contaminated Sediment	303d Listed	Low
<a href="#">Chippewa River</a>	<a href="#">Chippewa R At Eau Claire</a>	58.84	60.05	2050000	River	Eau Claire	PCBs	Contaminated Fish Tissue	303d Listed	Low
<a href="#">Chippewa River</a>	<a href="#">Chippewa River</a>	60.05	77.04	2050000	River	Chippewa, Eau Claire	PCBs	Contaminated Fish Tissue	303d Listed	Low
<a href="#">Chippewa River</a>	<a href="#">Chippewa River</a>	60.05	77.04	2050000	River	Chippewa, Eau Claire	Mercury	Contaminated Fish Tissue	Pollutant Removed	Delisted 2006
<a href="#">Halfmoon Lake</a>	<a href="#">Halfmoon Lake</a>			2125400	Lake	Eau Claire	Total Phosphorus	Eutrophication	TMDL Approved	Not Applicable

## *Watersheds*

A watershed is a region defined by a divide that drains to one defined water body. There are eleven Hydrologic Unit Code (HUC)-12 watersheds, typically the smallest scale watershed defined by USGS, in the County with the Lower Eau Claire River watershed as the largest of those watersheds.

From 1983 until its closure in 1994, the Lower Eau Claire River watershed project was the focus of a large-scale agricultural DNR priority watershed project resulting in participation from 125 farms that installed conservation practices. The moldboard plows were replaced with reduced and no-till conservation implements. This shift to conservation tillage helped reduce soil erosion rates to tolerable levels. Animal waste run-off was addressed on priority farms with barnyard run-off control practices. Stream banks had cattle fenced out, cattle crossings installed, and rock rip-rap stabilization placed in order to protect against sedimentation and improve water quality. The final report acknowledged that goals were met or exceeded.



The Black and Hay Creek, North Fork of the Eau Claire River, and the South Fork of the Eau Claire River watersheds all lie in the eastern part of the County, which is heavily forested. The major acreage of the County Parks and Forest lands lie in this area along with private forest holdings. This land use, along with the many wetlands, provides initial protection for these waters.

The Lowes and Rock Creek watershed is located in the western third of the County and is South of the City of Eau Claire. It was a DNR small-scale urban watershed project from 1990-2001. This project turned our focus to storm water issues. The management plan identified storm water run-off as the major source of non-point pollution. A major focus of the project was an information and education program for the urban population. Eau Claire County and its partners developed several Demonstration Sites that are still in use today. Examples are a Compost Demonstration site at the Eau Claire County Exposition Center managed by the Master Gardeners, numerous best management practices installed at Ken Vance Motors, and a regional storm water facility with an infiltration basin at Lowes Creek. Ground Water monitoring has also been performed by LCD staff as part of the projects. Lowes Creek is proposed for listing as an impaired water body by the Wisconsin DNR due to phosphorus issues.

Wedged between the Lower Eau Claire and the Lowes Creek watersheds is the Otter Creek watershed. This stream flows from the south and parallels Interstate 94 and State Highway 53. Its headwaters lie in farm country. It winds its way north through a transition zone that sees a great deal of farmland converted to residential use. It finally reaches the Cities of Eau Claire and Altoona and cuts between them until it empties into the Eau Claire River. Its lower portions are affected by storm water runoff from the two cities. UW-Eau Claire geography students, Citizen Science Center interns, and Altoona High School students provided assistance with field studies and monitoring. A DNR River Protection Grant helped fund the development of the River Protection Plan for Otter

Creek, which the LCD staff follows to address resource concerns. Otter Creek is proposed for listing as an impaired water body by the Wisconsin DNR due to phosphorus issues.

Small pieces of other watersheds such as the Lower Yellow River, Duncan Creek, and Muddy and Elk Creek are found in the County, but lie primarily in the adjacent counties of Chippewa and Dunn. They are very small and in some cases only a few square miles, so these receive relatively little attention from Eau Claire County as a focus watershed. Along the southern border of Eau Claire County are the Lower Buffalo River and the Upper Buffalo River Watersheds. They are located in the rugged terrain of the Driftless Area. Eau Claire County's portions contain headwater areas draining to Buffalo, Jackson, and Trempealeau Counties.

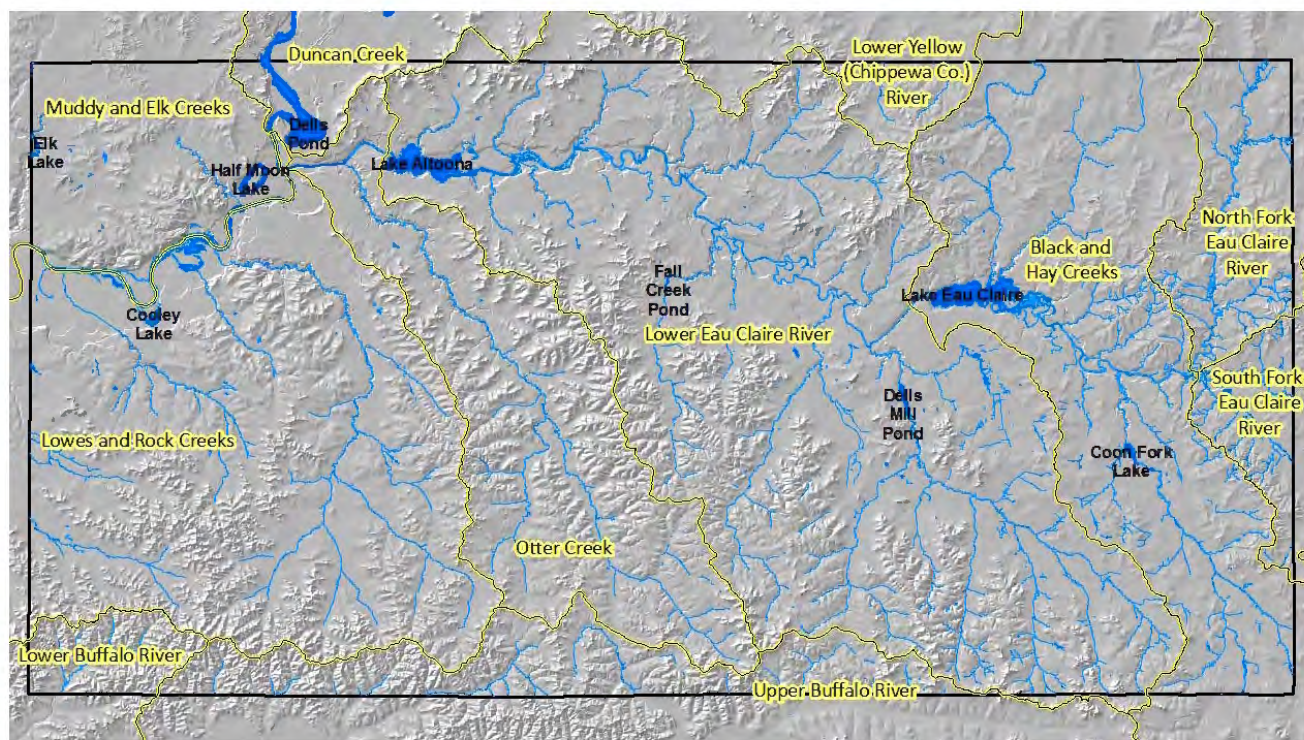


Figure 35: Eau Claire County Watersheds with major lakes identified.



## Priority Watersheds

Eau Claire County identifies priority watersheds and their associated priority sites (including but not limited to farm sites) using the following criteria:

- Sites that are in violation of Eau Claire County Code requirements.
- Critical sites that are significant sources of nonpoint source pollution upon which best management practices must be implemented in order to obtain a reasonable likelihood that the water quality objectives established for the receiving water body.
- Sites within watersheds that have indications of potential issues based on analysis of monitoring and inventory data collected. This includes farms with significant manure management problems or are making clearly excessive nutrient applications;
- Sites which have clearly excessive rates of erosion/sedimentation (including rills and gullies formed on site).
- Sites subject to a DNR notice of intent under s. 281.20, Stats., or notice of discharge under ch. 283, Stats.
- Sites located in watersheds draining to waters that DNR has listed in the 303(d) list of impaired waters under 33 USC 1313 and/or have established Total Maximum Daily Load (TMDL) reduction goals identified.
- Sites draining to Outstanding and Exceptional Resource Waters as designated by the state.
- Sites within Water Quality Management Areas (WQMAs) as defined by NR 151.015(24).
- Sites receiving formal complaints by our department in association with the NR151 performance standards and prohibitions.
- Other Sites that are out of compliance with performance standards and prohibitions as identified under NR 151, including but not limited to nutrient management and construction site erosion control implementation.

The implementation of this strategy is based on staff and funding availability; however, the Land Conservation Divisions intends to identify at least 20 priority sites per year in need of assistance and will utilize various funding resources for implementation. Also reference Chapter 6, Implementation Strategy, for further information on how cost sharing resources are prioritized and distributed in Eau Claire County.

The Land Conservation Division have initiated two other watershed projects with assistance from the DNR. Using the River Protection Grant program, the Otter Creek watershed was evaluated and in 2004 a plan for protecting Otter Creek was published. Staff has used that plan to pursue voluntary compliance with State Performance Standards. A more extensive project involves the Coon Fork watershed. In the past the Eau Claire County Land Conservation Staff have worked with Clark and Jackson Counties through DNR Lake Planning and Lake Management Grants to produce a Lake Management Plan. This watershed impacts Coon Fork Lake; which is entirely County-owned and surrounded by County Park and Forests lands. Implementation of best management practices (BMPs)



occurred in 2006 and 2007. Currently the watershed is part of a multi-county inventory effort to help identify otherwise overlooked pollutant sources in the watershed in order to target future BMPs.

Another watershed project was completed within the Lake Eau Claire Watershed using DNR Lake Planning Grants. The County, along with the Lake Altoona District and Lake Eau Claire Association, utilized funds to have UW-Stevens Point staff completed an inventory and assessment of the watershed utilizing the Soil and Water Assessment Tool (SWAT) model. The model utilizes various land use scenarios and helped to project possible input reductions in the watershed from land use changes. The County Land Conservation Division and Parks & Forest Department assists in the management of those lake resources and their associated watersheds.

Although the program by the official “Priority Watershed” designation is no longer available from the state, Eau Claire County did complete two DNR Priority Watershed projects as part of past efforts to control sedimentation and improve water quality. There were no priority lakes designated in Eau Claire County that were within County jurisdiction.

The Lower Eau Claire River was a large-scale agricultural watershed project from 1983 -1994. According to the DNR Basin Plan, “The Lower Eau Claire River Priority Watershed Project was selected in 1983 and completed in 1993. The project largely succeeded in meeting water resource objectives. Project goals in animal waste control were met in 9 of 12 targeted subwatershed, 72% of the cropland erosion control goal was achieved, and the stream bank erosion control goal was exceeded with 142% of the goal achieved. The project also greatly increased awareness of non-point pollution problems, and participation rates for landowners for installing best management practices was very high.” (WDNR, Lower Eau Claire PWS Final Report, 1995)

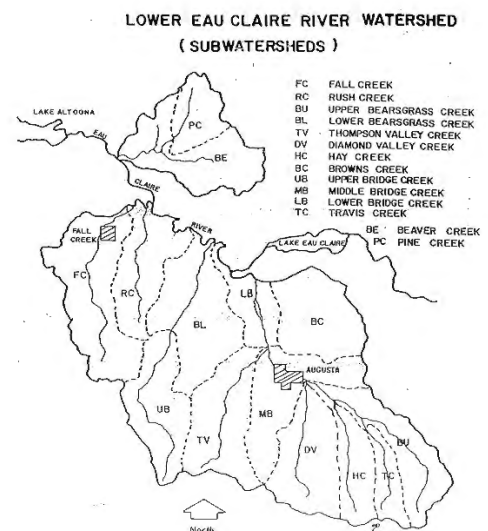


Figure 36: Former Lower Eau Claire Priority Watershed Project Area

The Lowes Creek was a small-scale urban watershed project from 1990 - 2001. According to the DNR Basin Plan, Lowes Creek is a small-scale priority watershed where “much of the watershed is in agricultural use with the exception of the urbanized area around Eau Claire and the forested hillsides.” Project “goals include: Maintaining current stream temperature regimes, by preventing increased thermal discharges to the stream; Moderate sediment and other pollutant control from existing urban and rural areas; High sediment and other pollutant control from future development; Maintaining or reducing peak flows of stormwater” (WDNR, State of the Lower Chippewa Basin, 2001)

## Groundwater

The Eau Claire County Groundwater Advisory Committee, a separate advisory committee that consists of both County Board members as well as professional technical staff, is a group of individuals that meets quarterly to address any concerns or potential issues that may be a threat to groundwater. In late 2011 and early 2012, the group met monthly as part of the Silica Sand Mining Moratorium to research and recommend policies to the County Board of Supervisors.

The County published a comprehensive Groundwater Management Plan in 1994. Based upon the recommendations in this plan, the Groundwater Advisory Committee embarked on many projects since that plan's adoption. Their original strategy was a three-prong approach to protect our drinking water resources. The first step was to work with municipalities and the University of Wisconsin – Eau Claire Geology Department to delineate zones of contribution for municipal wells. The next step was to work with student interns to delineate the land uses in the five-year and ten-year wellhead capture zones. The third step was to enact a county ordinance for municipalities to have the County enforce land use restrictions in order to protect their drinking water supply. In 2012, municipalities in Eau Claire County again revisited their ordinances and all those with public drinking water supply wells requested County coverage for those capture zones outside of their area of jurisdiction. The County Zoning ordinance includes Groundwater Protection Overlay Districts that outlines parameters for land uses within those areas.

There are two Atrazine Prohibition Areas as designated by the Wisconsin Department of Agriculture, Trade, and Consumer Protection. One is outside the Village of Fall Creek in the center of the County and the other is in the far southeast corner of the County. The City-County Health lab has tested areas determined to be most susceptible and offered testing to residents. No other atrazine restriction areas have been designated in the County since the mid 1990's.

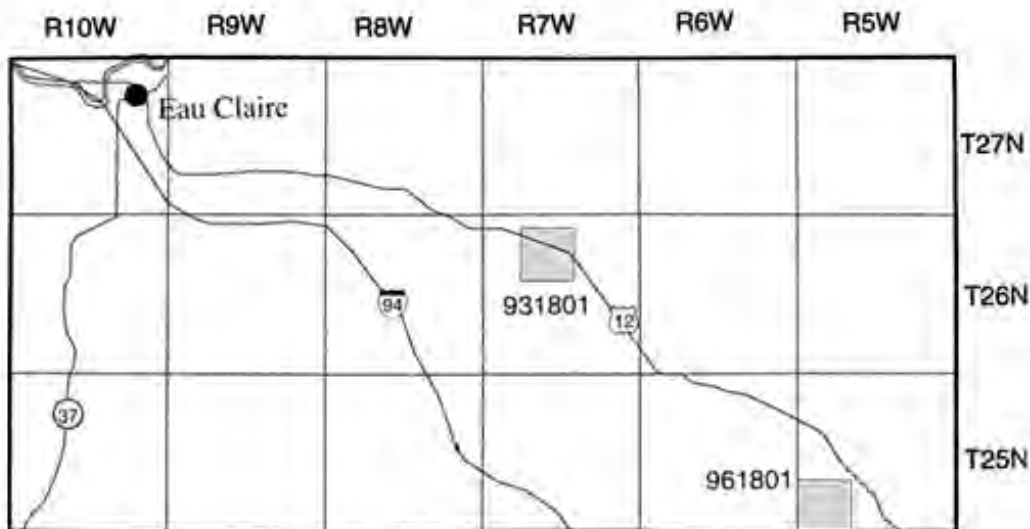


Figure 37: Eau Claire County Atrazine Prohibition Areas (WI DATCP Atrazine Prohibition Areas)

In conjunction with the City-County Health Department's staff and laboratory, the Land Conservation Division has worked on many groundwater projects. The Health Department's laboratory is state certified for many parameters to perform water testing, which aids in testing and monitoring groundwater quality for both public and private entities. Private well results are electronically filed at the City-County Health Department for many county households. Tests results include: nitrates, pH, alkalinity, hardness, chloride, VOCs, selective pesticides, and heavy metals such as arsenic. These studies are performed at sites or areas identified as having higher susceptibility, households with newborns, and at events where free testing is offered by the City-County Health Department. Any that exceed preventative action levels (PALs) receive follow-up educational materials to explain results, possible causes and how to prevent increases. All those samples that exceed drinking water standards receive personal attention from Department Environmental Health Staff. These testing services are offered regularly and have been performed for over 20 years.

Many other technical and educational activities have been and continue to be implemented. Examples include extensive testing of private water supplies, cost-sharing BMPs such as well abandonment and fuel containment structures, offering Solid Waste Clean Sweeps, monitoring infiltrated stormwater, and providing notice and enforcing private septic maintenance. A pilot well abandonment project was completed in one town in 2009 and successfully abandoned six wells as part of the project. Similar efforts will be pursued in the future.



## Plants and Animals

The Eau Claire County Parks and Forest Department manages over 52,000 acres of County Forest, which ranks as the 15<sup>th</sup> largest in the state. Along with the forest, seven parks offer a wide range of recreational opportunities including: swimming, hiking, picnicking, fishing, playgrounds, snowshoeing, fitness trails, ATVing, boat landings, camping, canoeing, cross-country skiing, horseback riding, mountain biking, snowmobiling, and disk golfing. The Parks and Forest Department actively manage the land and water resources in these locations as Sustainable Forests with dual certification from the Forest Stewardship Council (FSC) and the Sustainable Forestry Initiative (SFI) and through management of the dam structures at Lake Altoona, Lake Eau Claire, and Coon Fork Lake. The Eau Claire County Outdoor Recreation Plan outlines the goals and activities on those County owned properties.

The Eau Claire County Highway Department is a recognized partner with the Wisconsin Department of Natural Resources in the endangered Karner Blue Butterfly Protection efforts and monitor for and preserve habitat within the road right-of-ways under their management. Local volunteers participate in implementation of the “Clean Boats, Clean Waters” program at area boat landings to reduce the spread of aquatic invasive species.

Staff from the Citizen Science Center, an environmental education center at the Beaver Creek Reserve, in conjunction with Wildlands School, monitor and research natural ecosystems throughout the area. Beaver Creek Staff also serve as representatives to the Regional Cooperative Weed Management Area efforts on behalf of the Eau Claire County Land Conservation Division. Beaver Creek Reserve also supports a great outreach and education program for all ages including a nature center, nature preserve, planetarium, camps, and workshops.

Unique Ecosystems in the County are preserved through the County’s Stewardship Program. The Eau Claire County Land Stewardship Program was established in 2010 as a framework to facilitate the protection and preservation of land tracts within Eau Claire County that meet the following priorities recommended by the Land Stewardship Subcommittee and established by the Land Conservation Commission: Significant Ecological Value, Recreation and Public Access, Strong Community Support, Good Value for County Residents, Sustains Resource Base and Quality of Life.

## Species

- White Pine, Red Pine
- Jack Pine, Scrub (Hill's), Oak Forest and Barrens
- Swamp Conifers - White Cedar, Black Spruce, Tamarack, Hemlock
- Sugar Maple, Yellow Birch, White Pine, Red Pine
- Sugar Maple, Basswood, Red Oak, White Oak, Black Oak
- Oak - White Oak, Black Oak, Bur Oak
- Oak Openings - Bur Oak, White Oak, Black Oak
- Marsh and Sedge Meadow, Wet Prairie, Lowland Shrubs
- Brush
- Prairie
- Water

## Original Vegetation (Wisconsin DNR) Eau Claire County, Wisconsin

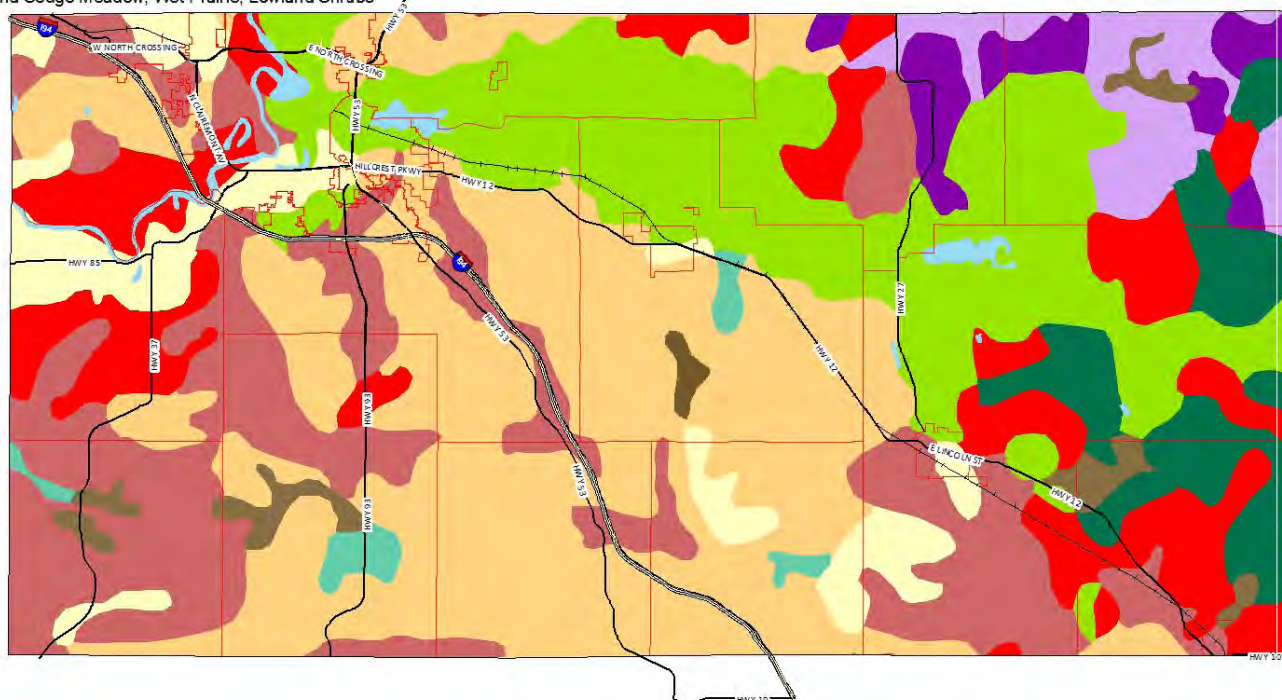


0 1.25 2.5 5 7.5 10 Miles



Eau Claire County  
Land Conservation Div.  
227 - 1st Street West  
Altoona, WI 54720  
Phone: (715) 839-6226  
Fax: (715) 839-6277  
www.co.eau-claire.wi.us

Prepared by: Kelly Jacobs  
September 5, 2012



**Figure 38: Original Vegetation of Eau Claire County.**

## *Invasive Species*

The Citizen Science Center provides leadership for Eau Claire County in this area of invasive species. Citizen Science Center staff are located at the County's Beaver Creek Reserve, an environmental education center. They are currently working on regional aquatic invasive species projects involving Barron, Chippewa, Dunn, Eau Claire, and Rusk Counties in the west central Wisconsin region. Through DNR grant funds, the Center offers Aquatic Invasive Species education and prevention programs. The Center also serves the interests of Eau Claire County as a participant in the proposed Cooperative Weed Management Area dialogue for better management of our terrestrial invasive species issues.

## Chapter 3: Conservation Challenges

Continuing to serve the bridge of both enforcement and assistance could prove difficult in the years ahead. As of 2012, the Land Conservation Division has had five years of enforcement implementation under the Storm Water & Erosion Control Ordinance. The coming ten years will be interesting in determining and strengthening the established Division role within Eau Claire County. Both enforcement and technical assistance serve their own purpose and are crucial tools in every conservation department. The housing market has declined the past few years in our area but each new development, including commercial sites, requires our attention. Storm Water Plans are reviewed and approved by the Land Conservation Division Staff. Construction Site Erosion Control plans are required for new one- and two-family dwellings; which are also handled by the Land Conservation Division. As growth continues, controlling urban non-point pollution, storm water runoff, and flooding will be a major focus and will likely require additional staff in the Division.

Locating old wells and unused manure storage structures is critical to the protection of our groundwater resources. While our general state of drinking water is very good, we recognize these as areas of concern for the potential of leaking nitrogen and potential entry point for pathogens into the groundwater. Eau Claire County LCD will continue to work with the Eau Claire City-County Health Department on well abandonments and appropriate septic installation and maintenance. Implementation of our animal waste ordinance will be utilized where needed for ensuring proper abandonment of manure storage structures that are no longer in use.

In regards to agricultural conservation challenges, economics may be our biggest threat whereas the weather may be our biggest ally. Farmers are required to look at their whole operation and make decisions on what they feel would be in the best interest of their farm. If corn prices are high, there is an incredible urge to go ahead and plan more corn regardless of what their conservation plan outlines. For absentee landowners, the rental rates for a crop are likely to be much greater than an easement or “set-aside” program like CRP. Understanding that landowners have a lot of other information to utilize in making their decisions, including but not limited to economics, the conservation community has to understand those other options and determine how good soil and water conservation can fit into each operation. The easiest conversation to have is how to encourage water retention and more drought resistant cropping systems on fields when a farmer is in the middle of a drought. Proper planning has a willing listener at that point and the conservation community needs to be ready to take advantage of those kinds of opportunities as they arise.

Although conservation plan information, livestock numbers and location exist, the USDA and DATCP do not always make the data available to partners, such as County and local governments, who are required to perform the duties of determining compliance with state agricultural nonpoint performance standards. This makes additional work for the local staff to track and evaluate if someone is in compliance and can be viewed as a duplication of effort. LCD compliance determinations under NR151 and/or ATCP50 will require farmers to voluntarily cooperate in many instances. An example is that past conservation practice designs that were funded under the EQIP program, but completed by LCD staff under a cooperative agreement with NRCS, are not readily



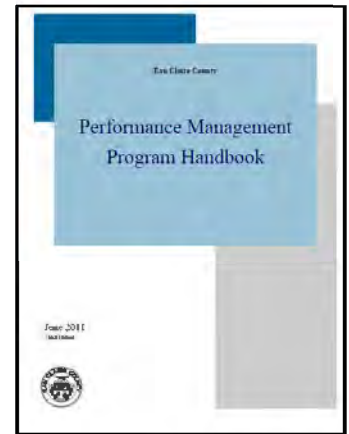
available to LCD staff as the USDA National Office has indicated those to be Federal Records and subject to FOIA as well as having been moved to a different building. In addition, the USDA offices do not always follow the same standards that Counties are required to meet. NRCS allows Conservation planning to “2T” which keeps a landowner eligible for federal farm programs, but may mislead the landowner as this is not in keeping with the state’s statutory requirements that cropland shall meet “T”. For these reasons, the USDA and LCD are going to have to further define their own identities outside of a formerly co-located field office and the County Land Conservation Division will need to further market its own services and requirements.

Remaining aware of the diversity of the County’s rural land uses is going to be key to ensure that Eau Claire County LCD staff have the technical knowledge and skills required to address the technical inquiries received. There are specialty crops in addition to various scales of agricultural operations. There are also the newer land uses such as frac sand mining and surely other unanticipated future land uses for which training and increased knowledge will be key. Currently serving as Technical Service Providers (TSP) for landowners in the planning realm, under the USDA-NRCS protocols, is going to be an interesting endeavor but hopefully one that will provide a more predictable revenue source beyond the former “contribution agreements”. If the planning TSP works out well, Eau Claire County LCD will likely pursue TSP certification in engineering related activities.

There are implementation challenges with best management practices in a voluntary setting. Through the voluntary conservation practice installation methods, landowners have an ala-carte option of which practice(s) they would like. Similar to the lunch line in the school cafeteria, there is the chance that those landowners do not take the necessary items that would encompass a “full meal” or a healthy conservation system. For example, in SNAP+, there is no incentive for a landowner to install a grassed waterway on his no-till farm as that landowner is allowed to collect the credits towards the T reduction regardless of the additional practice. In the voluntary “ala-carte” option, there is no incentive or “bonus” to also choose a grassed waterway with the no-till practice. If our cost-share could be implemented as a conservation system (multiple practice approach), there would be more beneficial conservation funded. Another example is the fields where crop rotations which include hay in combination with conservation tillage have helped to protect the steep, silty soils present in many areas of the county. Conservation tillage alone may not be enough to reduce soil loss to tolerable (“T”) levels on these same fields farmed with a corn/soybean crop rotation. By pairing the conservation tillage with the use of cover crops in this type of system, it can help maintain soil loss to tolerable levels. There are several practices that are functional on their own, but do incredible things for conservation when paired together. The Conservation community needs to recognize those and encourage those conservation systems in some form in order to see the conservation benefits as a voluntary conservation approach.

## Chapter 4: Goals and Objectives

The goals and objectives contained within this Chapter are mirrored in the Eau Claire County Performance Management framework which is reviewed annually, at a minimum, by County Administration and elected officials. The Performance Management Process is utilized as a decision making tool during the budget approval and review. The program is anchored on the concept that measuring program performance and utilizing program performance results is a key tool to assist staff in managing programs and to assist elected officials in public policy decision making and accountability. Since 2009, the Eau Claire County Finance & Budget Committee has required the submission of performance results for all programs with annual department budget requests. Program performance results are also included in annual department reports submitted to the County Board.



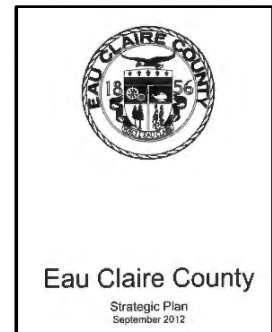
Both the County Performance Management Report and the DATCP Annual Report are designed to assess Eau Claire County's progress on LWRM plan goals and objectives. Appendix D includes a copy of the most recent Performance Management Report submitted by the Land Conservation Division. Appendix E includes a copy of the most recent DATCP annual report. It is the intention to keep both reports as closely tied to the LWRM plan as possible and request the appropriate adjustments, as needed, in order to achieve that end.

The Eau Claire County Strategic Plan, as developed and implemented by the Eau Claire County Board, has addressed several items of relevance to Land Conservation operations and programming. The Fall 2012 update involved a variety of items as it relates to Land Conservation Division Programs. Of the eleven issues identified, the most relevant issue area to Land Conservation programs is “How do we effectively deal with mining and use of natural resources?” which includes the following specific strategic initiatives:

- Comprehensive review of Ordinances & County Strategic Plan (health, safety, and welfare issues)
- Regulate public structure assets and administer public health, safety, & welfare codes and ordinances)
- Educate and utilize sustainable, environmental friendly ‘best practice’ approaches to land and natural resources.

Other specific strategic initiatives identified throughout the County’s Strategic plan that are of relevance to LCD activities include:

- Take action to increase property values and encourage construction and/or property improvements.
- Support and advance programs and services that promote “quality of life” in the community.
- Review all programs and services for process improvement, new revenue streams, and sustaining high property programs.
- Partner and collaborate with other agencies and municipalities providing similar services.
- Implement proven technology that provides efficiency gains and promotes on-line transactions for community members.





The Eau Claire County Comprehensive Plan, as adopted in 2010, also includes items that are implemented as part of this Land and Water Resource management Plan. The following goals were identified and included in the adopted Comprehensive plan:

- 2.3 Energy, Utilities, and Community Facilities
  - Goal One: Protect public health and high quality land and water resources through proper disposal of solid waste, proper treatment of sewage, and stormwater management
  - Goal Two: Maintain high quality infrastructure, county facilities, and service delivery to meet the needs of residents
  - Goal Three: Provide adequate access to quality educational and recreational facilities for all County residents
- 2.4 Agricultural, Natural, and Cultural Resources
  - Goal One: Preserve farmland and the rural landscape as a viable foundation for a strong agricultural economy
  - Goal Two: Minimize land use conflicts between farm and non-farm uses, as well as between farms
  - Goal Three: Protect sensitive environmental areas, wildlife habitat, rural vistas, and local cultural resources for current and future residents of Eau Claire County
- 2.5 Economic Development
  - Goal One: Attract and retain businesses that strengthen and diversify the local economy
  - Goal Two: Maintain a predominately agricultural based economy within rural portions of the County
  - Goal Three: Enhance tourism as an important aspect of the area economy
  - Goal Four: Minimize land use conflicts between business and non-business uses
- 2.6 Intergovernmental Cooperation
  - Goal One: Maintain mutually beneficial relationships with local government entities, neighboring counties, State and Federal agencies, and school districts serving County residents
  - Goal Two: Improve communication and consensus among area municipalities regarding future development
- 2.7 Land Use
  - Goal One: Balance the provision of adequate land and infrastructure to support new development with the protection of agriculturally productive areas, natural resources, and open space throughout Eau Claire County.
  - Goal Two: Balance land use regulations and individual property rights with community interests
- 2.8 Community Design Principles
  - Goal One: Promote high quality site and building designs within the County to uphold property values and reinforce community character



With the guidance of the Eau Claire County Strategic Plan, the Eau Claire County Comprehensive Plan, the 2007 Land and Water Resource Management Plan, and the public input received as part of this Land and Water Resource Management Plan development, the identified Goals and Objectives of this Ten Year Land and Water Resource Management Plan are separated into the following three “Programs and Services” categories:

#### *WATER QUALITY PROTECTION*

The Water Quality Protection category is designed to protect the counties water resources by reducing the inputs of nutrients and sediments resulting from storm water runoff from construction sites and agricultural activities. Much of this category is mandated through the state agriculture and urban non-point pollution statutes and has been strongly supported by County residents in annual surveys completed as part of the Eau Claire County Budget process.

#### *LAND CONSERVATION PLANNING*

The Land Conservation Planning Category is comprised of Land Conservation Division administration ensuring implementation of this comprehensive Land and Water Resource Management Plan. It does include other areas of priority to assist in addressing other soil and water conservation needs as identified by the Land Conservation Commission. This category also provides a framework for assessing and building on current mandated programs based on need.

#### *LAND PRESERVATION*

The Land Preservation Program is designed to protect Eau Claire County’s land and water resources, specifically for the purpose of reducing soil losses or preserving unique and valuable land resources. Habitat improvements for fish and wildlife as well as public recreational opportunities are also taken into consideration.

These three categories for the Land Conservation Division are reassessed and prioritized each year with all fourteen programs of the Department of Planning and Development. In 2012, the three programs ranked as priority numbers 6, 7, and 12 respectively within the Department.

## Chapter 5: Ten Year Activity Plan

Outputs identified in the Performance Management Reports will continue to be utilized to determine the success of meeting identified outcome measures under our Performance Management framework. Outcome Measures are utilized to determine how successful the Land Conservation Division was in meeting identified Performance Goals.

All "Programs and Services" categories correspond to those identified in the Performance Management Framework

\* means that this LWRM Objective or Goal is also identified as an action item or goal in the Eau Claire County Comprehensive Plan

+ means that this LWRM Objective is also an issue item in the Eau Claire County Strategic Plan

# means that this LWRM Performance Goal or Outcome Measure is also an item under the 2012 (existing) Eau Claire County Performance Management framework



Programs and Services	Objective	Performance Goal	Outcome Measures	Annual Benchmarks
Land Preservation	*Preserve farmland and the rural landscape as a viable foundation for a strong agricultural economy	Promote and Educate rural community about the benefits of participating in the Farmland Preservation Program (FPP) and other Working Lands Initiative Programs	#Maintain or increase the number of Farmland Preservation participants in Eau Claire County	100% or more participation as compared to the previous year
			#Review / revise conservation plans each year to evaluate whether or not farmers are in compliance with FPP guidelines	At least 50 reviews per year or 25% of participants (whichever is greater)
	*Maintain a predominantly agricultural based economy within rural portions of the County.		Offer assistance with application for development of an Agricultural Enterprise Area or for entry to the PACE program, as requested.	Make at least one face-to-face contact per year regarding AEA & PACE options.
	*Minimize land use conflicts between farm and non-farm uses, as well as between farms	#Provide damage prevention assistance and partial compensation to land owners when wildlife damages their agricultural crops through administration of the WI-DNR Wildlife Damage Program	#Respond to all wildlife damage claims and verify wildlife damage to crops within five days of notification.	100%
			Maintain local processors within Eau Claire County for the meat donation program.	At least one processor available to residents
	*Minimize Land Use conflicts between business and non-business uses	Minimize impacts to natural and pre-existing environmental processes	Maintain natural drainage areas as closely as possible to encourage sufficient surface flow and groundwater recharge	95% of projects and applications reviewed maintain natural drainage patterns
			Review proposals for Water Quality Pollutant Trading within Eau Claire County and its associated watersheds	Review and direct as funding allows
			Provide technical review on Non-metallic mining Reclamation Plans in accordance with NR135 and County Code	Provide comment on 100% of new applications
			Provide technical review on Certified Survey Maps submitted to the County in accordance with County Code	Provide comment on 100% of new applications
			Reduce impacts of light pollution by utilizing technologies that direct light downward and conserve dark skies	100% of projects meet specifications

Programs and Services	Objective	Performance Goal	Outcome Measures	Annual Benchmarks
Land Preservation (continued)	*Protect sensitive environmental areas, wildlife habitat, rural vistas, and local cultural resources for current and future residents of Eau Claire County	#To provide a diverse and economical means for residents to reduce soil erosion and enhance the aesthetic value of their landscape	#Provide a quality Tree Sale Program to County residents	Maintain at least 95% satisfaction on returned surveys
			Provide assistance to shoreline and stream bank landowners for stabilization of those key buffer areas.	Goal of at least one shoreline/streambank project per year.
			Offer the CREP (or similar )program to residents with heavy use pastures or cropland within 300 ft of water body.	Make at least one face-to-face contact per year regarding CREP options.
		*Enhance tourism as an important part of the area economy	Acquire public access and/or acquisition to unique and/or sensitive lands through the Stewardship and other programs	Meet with at least three interested landowners per year
		Private Lands Management to encourage healthy ecosystems	Participate and Encourage efforts to control Terrestrial Invasive Species	Assist the area Cooperative Weed Management group
			Participate and Encourage efforts to control Aquatic Invasive Species	Assist the Citizen Science Center with their efforts
			Participate and Encourage local groups conserve, protect, and establish a variety of diverse habitats for plants, fish, reptiles, pollinators, and other native communities	Assist area organizations in their conservation efforts
		*Provide adequate access to quality educational and recreational facilities for all County residents.	Solicit the Stewardship Program for preservation of important/ unique lands in Eau Claire County.	At least 5 events/groups per year

Programs and Services	Objective	Performance Goal	Outcome Measures	Annual Benchmarks
Land Conservation Planning	*Maintain high quality infrastructure, county facilities, and service delivery to meet the needs of residents	# Evaluate Conservation Needs in Eau Claire County and update the LWRM plan as required by statute	#LWRM plan will be updated in accordance with timelines outlined in state statutes	100%
			Ensure LWRM plan is consistent with other County Plans including the Comprehensive Plan, Outdoor Recreation Plan, Forest Comprehensive Land Use Plan, Strategic Plan, and Farmland Preservation Plan	100%
		+Review all programs and services for process improvement, new revenue streams, and sustaining high property programs	Complete watershed inventories throughout the County to determine sites of concerns for potential contamination as well as performance standards compliance	Inventory at least 1,000 acres per year
			Assess and implement dam removal/repair options on County-owned Johnson Dam and inventory other low head dams that impede fish movement and are otherwise providing limited benefit to the public .	100%
	+Comprehensive review, regulation, and administration of County Ordinances and Policies	# To gain guidance in evaluating and implementing land and water resource protection through feedback from the Land Conservation Commission	Agenda packets for the LCC meeting will be provided to Commission members for review prior to the meeting	100%
		Map and Track Compliance Status	Utilize the ACS-LDO system, tied to ArcGIS and other mobile options, to track compliance with County Ordinances as well as State Performance Standards for all parcels	100%



Programs and Services	Objective	Performance Goal	Outcome Measures	Annual Benchmarks
Land Conservation Planning (continued)	*Attract and retain businesses that strengthen and diversify the local economy	*Maintain mutually beneficial relationships with local government entities, neighboring counties, State and Federal agencies, and school districts serving County residents	Assist in developing plans and implementing Energy Conservation Best Management Practices for Conservation Farmers	At least one energy management plan or practice per year.
			Assist in developing local markets for conservation farmers (including, but not limited to: Local Food, Farm-to-school, Certified Organic/Grassfed, and Value-added opportunities)	Participate in at least one meeting per year
		Encourage Sustainable Land Uses that support long term environmental health	Support a transition to Managed Grazing to encourage low-cost livestock production, growth of forages in a crop rotation, and reduce impacts to sensitive environmental areas	Write at least one grazing plan per year
			Promote development of sustainable biomass utilization technologies for underutilized timber and permanent cover crops	Assist in annual review
			Maintain knowledge and certifications on a variety of land use options including organic, integrated pest management, forest management, etc.	One specialized training per year for each LCD staff person

Programs and Services	Objective	Performance Goal	Outcome Measures	Annual Benchmarks
Land Conservation Planning (continued)	+Educate and utilize sustainable, environmentally friendly 'best practice' approaches to land and natural resources	#To guide the reduction of soil loss rates and water pollution in the County by incorporating Wisconsin's Soil and Water Resource management and runoff management rules (ATCP50 & NR151)	#Ordinance changes resulting from updates in the Wisconsin Ag & Urban Nonpoint Pollution Runoff Rules will be adopted within 90 days of the review of the rules	100%
		Connect with Eau Claire County residents and stakeholders to instill long term conservation values	#Provide public outreach or education presentations/ workshops	At least 5 events/groups per year
			#Provide one-on-one outreach or education contacts to Eau Claire County residents	Continue to participate in the Chippewa Valley Storm Water Forum
			#Provide radio broadcasts during the year on Land Conservation issues of interest or need to Eau Claire County residents	At least 50 resident contacts per year
				At least 8 per year
			Market the Land Conservation Division to make the public aware of the services available	Develop a schedule for at least 5 regular press and social media releases per year
				Develop a unique logo and outreach materials as time and funds allow
			#Offer nutrient management planning workshops during the year	At least two per year
			#Conduct face to face contacts with farmers	At least 50 farmer contacts per year
			Provide hands-on youth education	Annual Land Judging Competition
				Annual Speaking Contest
		Promote a comprehensive watershed approach to address sedimentation and nutrients in lakes	Develop, assist in development, and implement watershed plans (including EPA "9 key element" watershed plans)	Identify key watershed focus area each year
			Meet with Lake District and Lake Association officials to discuss annual priorities	Attend at least one meeting each year of each lake group

Programs and Services	Objective	Performance Goal	Outcome Measures	Annual Benchmarks
Water Quality Protection	*Balance the provision of adequate land and infrastructure to support new development with the protection of agriculturally productive areas, natural resources, and open space throughout Eau Claire County.	#To reduce environmental impacts due to development through enforcement of State non-point pollution standards and Eau Claire County's Storm Water Ordinance.	#Spend County Cost Share and State Land and Water Resource Management Cost Share funds for the installation of conservation best management practices geared towards improving water quality and reducing erosion from local farmland.	At least 90% of the allocation spent on these water quality improvement / sediment reduction practices
			Allocate State Joint Allocation funds for Nutrient Management and Agricultural BMP installation.	At least 80% of total cost-share funds
			Assist in Shoreline Management efforts including stabilization and provide technical expertise in the implementation of Shoreland Overlay Districts	Assist as needed
		*Protect public health and high quality land and water resources through proper disposal of solid waste, proper treatment of sewage, and storm water management.	#Erosion Control and Stormwater Permits will be issued in accordance with Eau Claire County's Storm Water Management and Erosion Control Ordinance	100%
			Complete well abandonment and shoreline stabilization/restoration projects as requested	90% of requests are funded
			Assist the City-County Health Department with analysis of homeowner well monitoring data.	Assist in annual review
			Assist Citizen Science Center and WDNR to identify and monitor water bodies in the County.	Assist in annual review
		Administer County Animal Waste Ordinance implemented to properly abandon inactive storage structures as well as properly construct new structures	100%	
	Protection of Soil and Water Resources for the benefit of all County residents.	#To increase public awareness of State and County agriculture and non-point source standards.	Update Lake Management, Basin, Watershed, and River Protection Plans in the County	Complete Annual Review and Priority List
			#In annual surveys consistently show a reduced need for chemical fertilizer	At least 70% of respondents indicate reduced fertilizer need
			#Maintain or Increase the level of participation in the Nutrient Management Program	100% or more participation as compared to the previous year
			#Reduce Sediment Delivery and nutrient impacts to the water resources of Eau Claire County.	#Total Suspended Solids removal standards for the MS4 permit will be met according to required timelines.



## Chapter 6: Implementation Strategy

The Land Conservation Division coordinates with various partners to ensure implementation of all activities as outlined in this Land and Water Resources Management Plan. Various partners include, but are not limited to, the following constituents and their various program and interests:

- United States Department of Agriculture - Natural Resources Conservation Service (NRCS)
- United States Department of Agriculture - Farm Services Agency (FSA)
- United States Fish and Wildlife Service (USFWS)
- Wisconsin Department of Natural Resources (DNR)
- Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP)
- Wisconsin Department of Transportation (WisDOT)
- Eau Claire County Towns Association (including Local Town Government officials)
- Local Municipality Officials
- Other County Departments (i.e. UW-Extension, City-County Health, and Parks & Forests)
- Other Divisions within the Eau Claire County Department of Planning and Development
- Federal, State, and County Board Elected &/or Appointed Officials
- Wisconsin Land and Water Conservation Association (and other professional organizations)
- West Central Wisconsin Regional Planning Commission
- Area Colleges, Universities, and School Districts
- Lake Districts (i.e. Lake Altoona, Lake Eau Claire)
- West Wisconsin Land Trust
- Chippewa Valley Storm Water Forum (CVSWF)
- Beaver Creek Reserve
- Local and Regional Sportsman's Clubs (i.e. Augusta Sportsmans Club, Ducks Unlimited, Trout Unlimited)
- Local Youth Organizations (i.e. Girl Scouts, Boy Scouts, 4-H, Future Farmers of America)
- Local Businesses and Industries
- Other Local Organizations and Interest Groups (i.e. Prairie Enthusiasts, Farm Bureau, Farmers Union, Eau Claire Area Chamber of Commerce, Save the Hills Alliance)
- Neighboring County Land Conservation (or other) Departments
- Eau Claire County Residents

## Technical Assistance

Eau Claire County Land Conservation prefers to work with private landowners using a voluntary approach. Much of the “conservation on the ground” work for private landowners does result from willing participants taking advantage of opportunities provided by the Land Conservation Division.

Utilization of opportunities with partners, as technical service providers or through contribution agreements with USDA-NRCS, will also be explored to help leverage resources that will allow us to continue getting conservation on the ground in Eau Claire County. Several Eau Claire County LCD staff have DATCP job approval authority in a variety of hard and soft practices (see Appendix B for a list of practices available to landowners). Additionally, several staff have the appropriate federal security paperwork approved to be able to utilize those USDA systems where appropriate.

### *Funds directed to Private Landowners*

LCD directs County levy, Wisconsin Joint Allocation, and other fund sources to landowners for assistance with the cost of conservation practice installation on private lands in order to conserve and preserve soil and water resources. Funds are intended to also meet the statutory requirement for providing 70% cost-sharing in order to attain compliance with the performance standards and prohibitions.

The prioritization of cost-share fund distribution utilizes the following assessment (in priority order):

1. Does the project address gully erosion? For two reasons: 1) SNAP+ and RUSLE2 assume these are already controlled in their calculation of T, and 2) these areas are critical soil and water resource concerns based on amount of sediment loss already realized as well as the continuing impacts from additional loss if the site is not stabilized.
2. Does the project provide nutrient reductions and/or prevent sediment loss in the SWQMA?
3. Does the project bring landowner into compliance with performance standards, ATCP50, NR151, and/or Farmland Preservation requirements?
4. Does the project provide the most value to taxpayers (“big bang for the buck”)? This includes partnering with other outside funding sources to address conservation concerns. There will also be an increased focus on “alternatives to concrete” (i.e. grazing, filter strips, buffers, etc.) in order to assist the highest number of landowners with the funds that are available.

The following best management practices have been installed in Eau Claire County utilizing cost-share funds on private lands:

Project Type	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Barnyard Run-Off Control System	7	3	5	4	1	3	2	1	1	1
Erosion Control Structure	0	0	0	0	0	1	0	0	0	0
Grassed Waterway/Repair	6	9	7	5	2	2	3	5	2	3
Lake Shore Buffers	0	0	0	0	0	4	1	0	0	0
Nutrient Management Plan	76	40	67	80	64	70	74	76	88	74
Heavy Use Area Protection	0	0	0	0	0	1	1	2	1	2
Well Abandonment	9	9	13	14	13	15	4	10	14	4
Access Road	1	1	0	0	0	0	2	2	0	5
Sediment Basin	0	0	1	0	0	1	0	0	0	1
Manure Storage Abandonment	0	0	0	0	0	0	1	2	3	0
Spring Development	0	0	0	0	0	0	1	0	0	0
Fuel Containment Vessel	0	0	0	0	0	0	1	2	0	0
Waste Storage Structure	0	2	1	1	0	0	0	4	0	0
<b>Total Projects Completed</b>	<b>99</b>	<b>64</b>	<b>94</b>	<b>104</b>	<b>80</b>	<b>97</b>	<b>90</b>	<b>102</b>	<b>109</b>	<b>90</b>

Figure 39: BMPs installed on Private Lands in Eau Claire County.

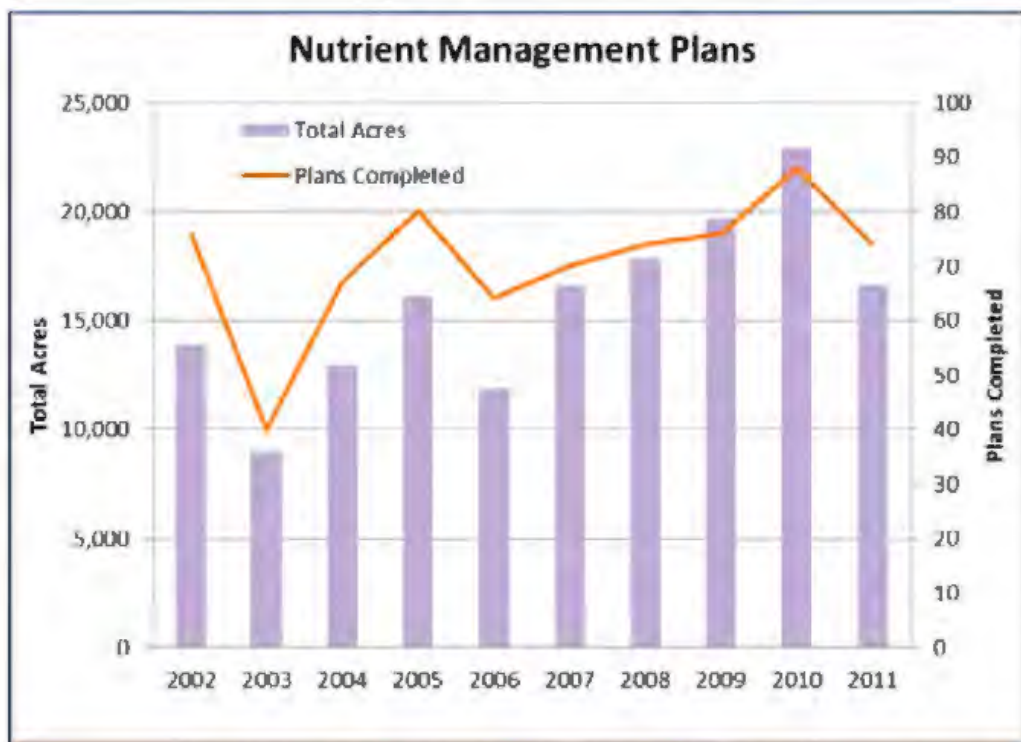


Figure 40: Nutrient Management Plan implementation over the past ten years in Eau Claire County.

## Enforcement

Enforcement of several local ordinances is the LCDs sole responsibility. This covers most of County Code 17 and includes Farmland Preservation Program compliance, the Storm Water Management and Erosion Control Ordinance, and the Animal Waste Storage Ordinance. LCD also provides technical review for various other County ordinances and programs that can affect private landowners including, but not limited to, Chapter 18 which includes the County zoning ordinances. Copies of these ordinances can be obtained from the Eau Claire County web-site or by requesting copies at either the Eau Claire County Clerks office, the Eau Claire County Department of Planning and Development (P&D) main office, or the Eau Claire County P&D Land Conservation Division (LCD) office.

As part of the original Lowes Creek Small Scale Urban Watershed Project, storm water and erosion control on construction sites become a priority. The County enforces the Uniform Dwelling Code (UDC) that includes erosion control requirements for one and two family dwellings. Stormwater runoff was enforced at residential and commercial sites between 1991 and 2006 via various provisions in the zoning code. The County Board adopted the Storm Water Management and Erosion Control Ordinance (December 2006) which meets the current DNR state standards and draws from various authorities under state law. The Ordinance was updated in 2012 based on five years of implementation and to clarify its relation to new land uses in the County. Several LCD staff are state certified inspectors for the stormwater and erosion control requirements outlined in the UDC. The LCD staff works in conjunction with the DNR staff on sites requiring state involvement. Eau Claire County LCD has been enforcing urban standards since 1991.

LCD will be transitioning in this ten year period to a universal County-City wide database (ACS-LDO) to track ordinance compliance. LCD programs such as the Animal Waste Ordinance, Stormwater & Erosion Control Ordinance, Working Lands (formerly known as Farmland Preservation) requirements, and Nonpoint Performance Standards (NR151/ATCP50) status will be phased into the software. This information will be linked directly to the tax parcel data and tied to the County GIS system to assist in program implementation. During the transition, the information will continue to be tracked using a Microsoft Access database created in 2011. Mobile computing technologies (beyond the laptop) are intended to be utilized wherever possible and feasible in order to increase efficiencies within the department.



## Implementation Strategy for State Performance Standards and Prohibitions

Eau Claire County will be implementing the ACS-LDO (Land Development Office) system to record results of compliance inspections and assessments. The system will include reports to provide landowners with the results of our review of their operation. The database is tied to the official land records (parcel) database tracking software ("ACS-AO") and is used by other City and County permitting associated with the Health and the Planning and Development (including Land Use/Zoning) Department Code enforcement. The NR151 compliance determination information, along with all other Land Conservation Division Code enforcement, will be accessible to all County staff and will be tied to the parcel for purposes of continued tracking. During the period of this ten year LWRM plan, the ACS-LDO software will be completely linked to the official land records GIS database as well as implemented in the field through mobile computing technology such as GPS enabled tablets and smartphones with remote server connections.

Although the County has the responsibility to enforce its local ordinances and programs, ultimate enforcement of both Ag and Non-ag performance standards and prohibitions under NR151, Wis. Adm. Code remains with the WI DNR. That being said, Eau Claire County wishes to assist landowners to avoid state enforcement action and will work with them to obtain compliance with the state performance standards.

The following steps are proposed as a process to follow for implementation of the state performance standards in Eau Claire County.

1. Conduct information and education activities that help rural landowners understand NR 151 compliance. Voluntary compliance will be stressed along with identifying the methods to achieve this.
2. Determine current compliance with the state standards. The LCD staff will perform a records review of the Farmland Preservation Program certification and Cost Share Agreements (Priority Watershed, County Cost Share, DATCP, etc.). On-site visits will complement this step to evaluate the status of priority sites.
3. Notify landowners of compliance status in accordance with the developed NR151 compliance checklist. Our first priority will be to notify landowners in full compliance with the state standards. The next priority will be to contact landowners who need assistance in complying with the state standards.
4. Provide technical assistance and offers of cost share to landowners in need of conservation BMPs. The County will seek a combination of county, state, federal, and other funding partnerships for cost-share purposes. In accordance with statute, landowners are not obligated to meet the state standards unless this cost share is offered. Farms that decline offers of cost share and are out of compliance will be communicated to DNR. It is our intent that the DNR staff, in consultation with LCD staff, will issue a notice of noncompliance or a notice of discharge for the noncompliant parcel. If the landowner disagrees with the initial LCD determination, the staff and landowner may meet and discuss the concerns. If the

landowner disagrees with that outcome, they may pursue an appeal process through the LCC and/or DNR.

5. Sign contracts, administer funding, and construct/implement needed BMPs. If a landowner is unwilling to comply with state standards, the matter will be referred to DNR for enforcement.
6. As landowners comply, their status will be updated and notices of compliance issued. LCD staff will provide local DNR staff with progress updates. The LCD office will maintain financial records and meet reporting requirements.
7. During other work under various County Codes, cross compliance with Performance Standards and Prohibitions will be assessed as often as possible during these activities.
8. Monitor compliance and maintain records. The LCD will continue to monitor compliance by performing on-site visits and recording the results. We currently visit at least 50 farms per year for the Farmland Preservation Program alone, and find this helpful in maintaining a relationship with the landowner and being able to work with them on any compliance concerns.
9. Review performance standards implementation process. If the DNR referral process is not functioning as intended, or is otherwise determined to require a more formal process, a memorandum of understanding will be pursued for NR151 enforcement in Eau Claire County.

## Education and Outreach

A variety of means are utilized to reach out to stakeholders and landowners in Eau Claire County. The partnering agencies of USDA-FSA (County Executive Director), USDA-NRCS (District Conservationist), UW-Extension (County Agriculture Agent), Wisconsin DNR (Private Lands Forester), and Eau Claire County LCD (Land Conservation Supervisor) meet quarterly to discuss topics of interest and update each other on available programs, issues they see in their work with landowners, and how to collaborate on similar efforts. These same representatives each pre-record one radio episode per month for “the conservation message” aired each Sunday morning on the regional radio station as a means to keep farmers and others informed about current events and available programs.

Additional paid radio and television messages are utilized by the Chippewa Valley Stormwater Forum in order to reach out to area residents and visitors about the importance of managing their storm water. The *Rain to Rivers...Wise Choices for Cleaner Waters* is an education campaign sponsored by the multi-jurisdictional Chippewa Valley Storm Water Forum, of which Eau Claire County is a member, aimed at protecting and improving the quality of local lakes, streams, rivers, and wetlands.

The Eau Claire County Land Conservation Commission also recognizes the value of educating our youth about soil and water conservation. To that end, LCD provides a Land Judging competition for Area High School competitors as well as a Speaking contest in conjunction with the WLWCA program. The Wildlands Charter School, located in the Citizen Science Center of the Beaver Creek Reserve, also educates middle and high school youth who wish to delve into an innovative curriculum that focuses on using scientific research and project-based learning. Additionally, a variety of environmental education activities, events, and camps are held at the Beaver Creek Reserve for all ages.

Each December, the Eau Claire County Board recognizes the winners of our annual conservation awards as selected by the Land Conservation Commission. The award recipients have included any of the following: Conservation Farmer of the Year, Water Quality Leadership, Special Recognition, Forestry, Wildlife, Speaking Contest, and Land Judging award winners.

Various events are also utilized to bridge the gap between urban and rural in Eau Claire County. The largest of these is Chippewa Valley Farm-City Days which is a “free event about fun, sharing and educating, as well as fostering a mutual understanding between our agricultural and non-agricultural residents” (Chippewa Valley Farm-City Day, 2011). Other events like “Leadership Eau Claire” and “Youth Leadership Eau Claire”, sponsored by the Eau Claire Area Chamber of Commerce, take time to recognize the importance of agriculture and natural resources to the economy and quality of life in Eau Claire County. Newer events also include the Chippewa Valley Sustainability Fair, various Earth Day / Arbor day events, and always new and innovative means to reach out to residents of Eau Claire County.

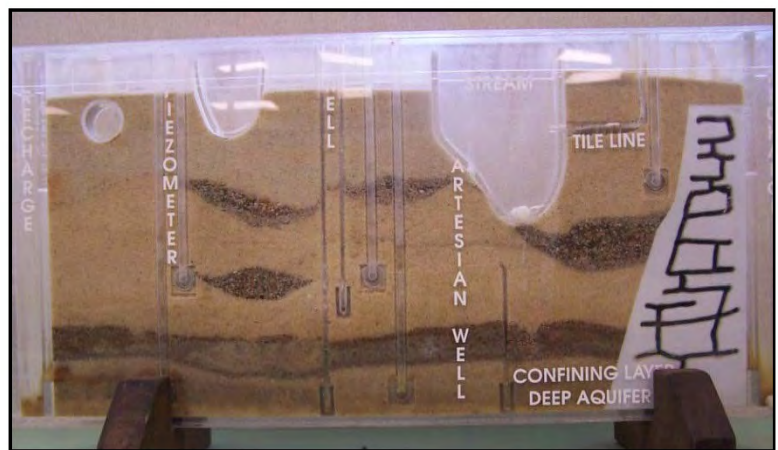


Figure 41: Groundwater Model used at events and presentations to demonstrate surface impacts to groundwater.





**Figure 42: Conservation field tour lead by LCD staff in December 2011.**

The Land Conservation Commission hosts an annual conservation tour in order for them to connect with the practices utilized as well as provide an opportunity for the County Board of Supervisors and the public to gain an understanding of LCD activities. Additionally, the LCD staff and our partnering agencies host various technical tours as a learning opportunity for farmers and landowners. Recent tours have included manure spill response workshops, as well as a tour that highlighted tillage practices (including innovative techniques like the use of tillage radish).

Stewardship Week, in the Spring of each year, is also utilized as a means to identify the Eau Claire County Land Conservation Division and reach out to Eau Claire County residents about a topic of national, but also local, interest. Intensive media outreach is a large part of these festivities and an associated workshop or event may be used as well. Other media outreach (both press releases and social media releases) are utilized throughout the year to identify timely topics.

An annual tree sale is organized and managed by the Eau Claire County LCD mostly as a means to provide landowners with a permanent cover option for their private properties and a means for wildlife habitat improvements. The program also provides a way that the LCD can reach out to landowners and have a dialogue with them about their conservation plans. This County program is also complemented by the Beaver Creek Reserve's annual native plant sale as well as River Country Resource Conservation & Development Council's ongoing native prairie seed sales.



**Figure 43: An established tree planting on steeper slopes in Eau Claire County.**

**All costs, including overhead are covered by sales.**

Year	Orders Received	Total Trees & Shrubs
2002	297	38,025
2003	233	34,800
2004	230	36,200
2005	267	37,450
2006	237	33,825
2007	222	31,325
2008	160	24,425
2009	271	34,125
2010	215	27,300
2011	201	25,025

**The Eau Claire County Land Conservation Division has sold a total of 886,525 trees since the Tree Program began in 1982. We would like to take this opportunity to thank all landowners who participate in this program.**

**Figure 44: Eau Claire County Tree Sales Data.**

## Monitoring and Program Review

Formal program assessments are completed annually, at a minimum, but continual assessment and review is important throughout the year to ensure the Eau Claire County LCD is still focused on the priorities identified in the LWRM plan. Comparison with other private landowner programs to encourage partnerships and reduce overlap is always encouraged within Eau Claire County.

Activities such as the watershed inventories and analysis of samples collected throughout the County helps track the need for improvements and attention while also identifying if the installed best management practices are providing the expected benefits. Additional grant opportunities and agreements with partners are utilized when there is a need to look into a specific issue and gain understanding of the benefits (or lack thereof).

Assessment of effectiveness of the LCD programs will be completed by: Monitoring through collaboration with partners, watershed inventory projects, and through bi-annual inventories (aka “the former transect survey”). The County Performance Management Process will help us track and monitor our success in meeting established goals. Feedback from information and education activities will also be an important part of the program review process.

## Expenses Associated with Implementing the LWRM plan

Projecting that the current fiscal constraints will continue, staffing levels are estimated based on maintenance of 2012 staffing levels with the addition of at least 0.5 FTE in 2016. Operating costs are estimates for office expenditures only, based on 2012 levels, and do not include cost share, grants, or other special projects coordinated by the division.

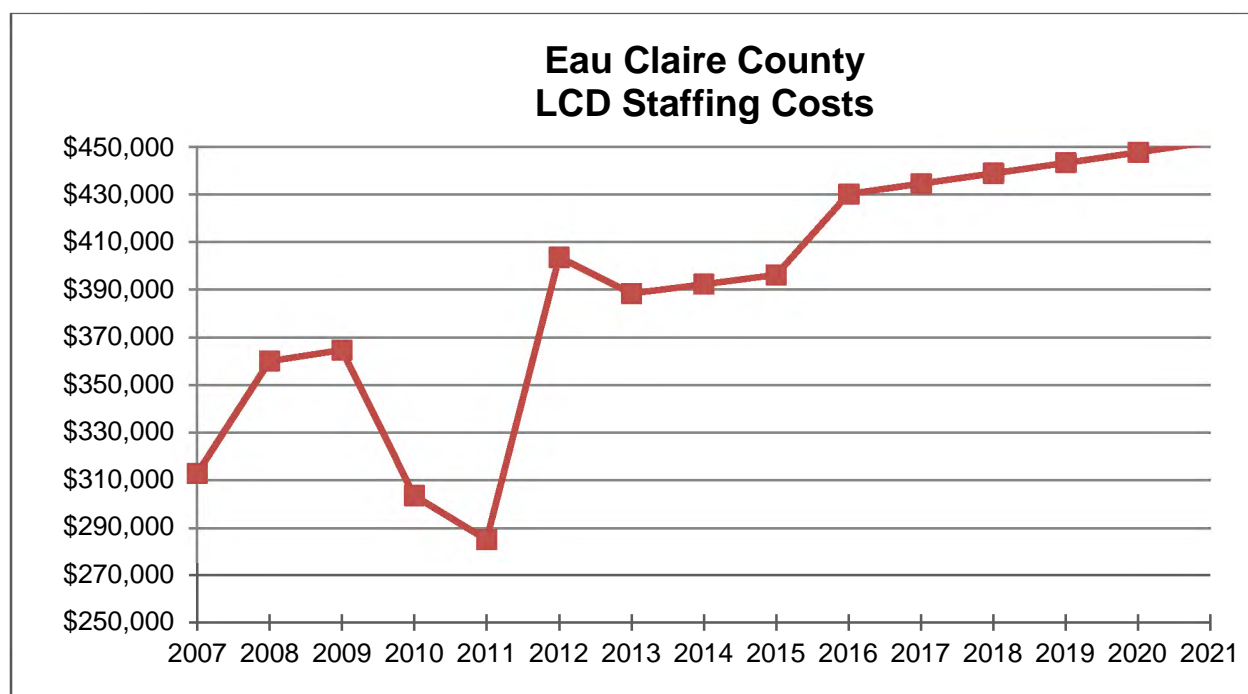


Figure 45: Recent and Anticipated Staffing Expenditures for the Eau Claire County Land Conservation Division.

Although Eau Claire County is optimistic about the ability to utilize state funds in the future for staffing and operating costs, these funds have continued to diminish since the late 1990s. Eau Claire County will continue to recommend solutions and provide input on state assistance funds that allows for continued implementation of state conservation initiatives in Eau Claire County. In addition, the Land Conservation Division will be aggressive in acquiring outside funds to continue to support current and additional services as needed. Fee-based efforts will also be explored to assist in covering expenditures for needed activities.



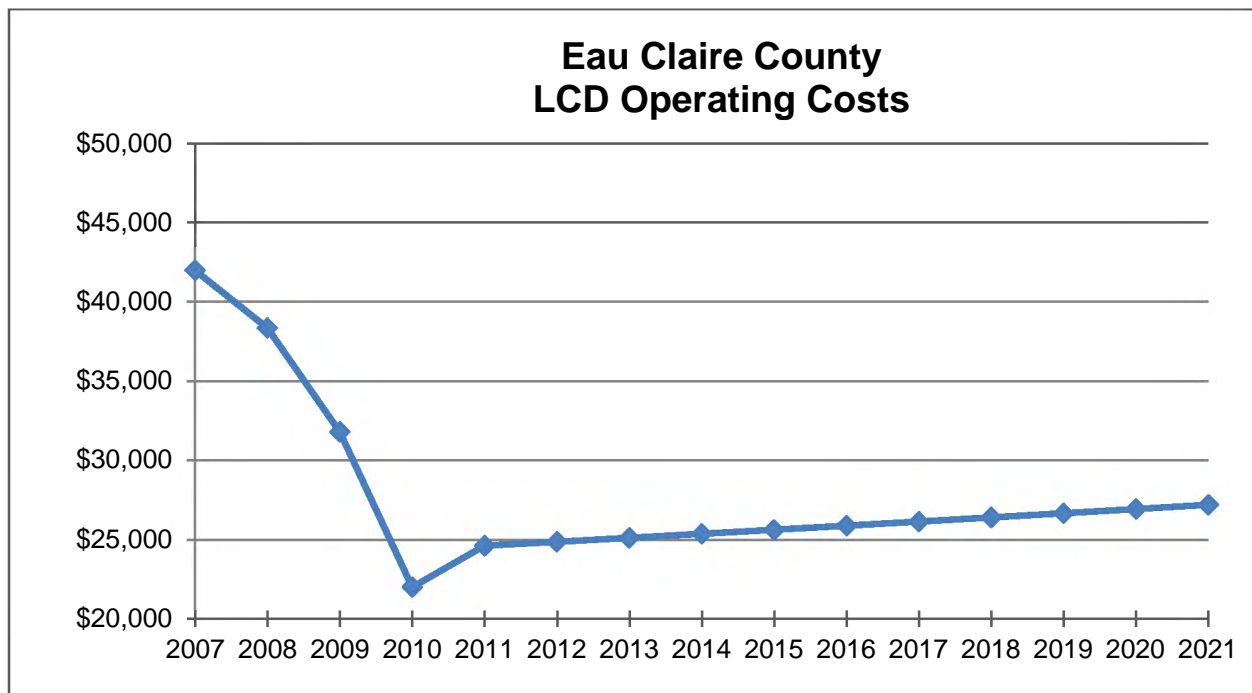


Figure 46: Recent and Anticipated Operating Expenditures of the Eau Claire County Land Conservation Division

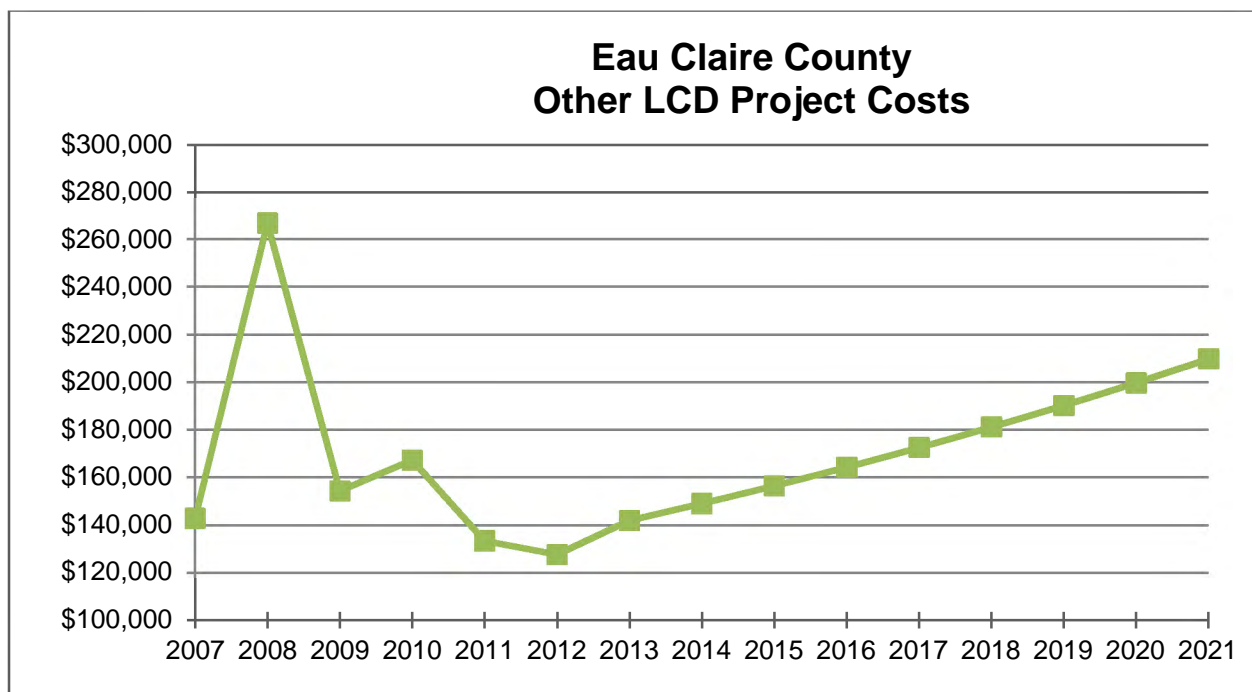
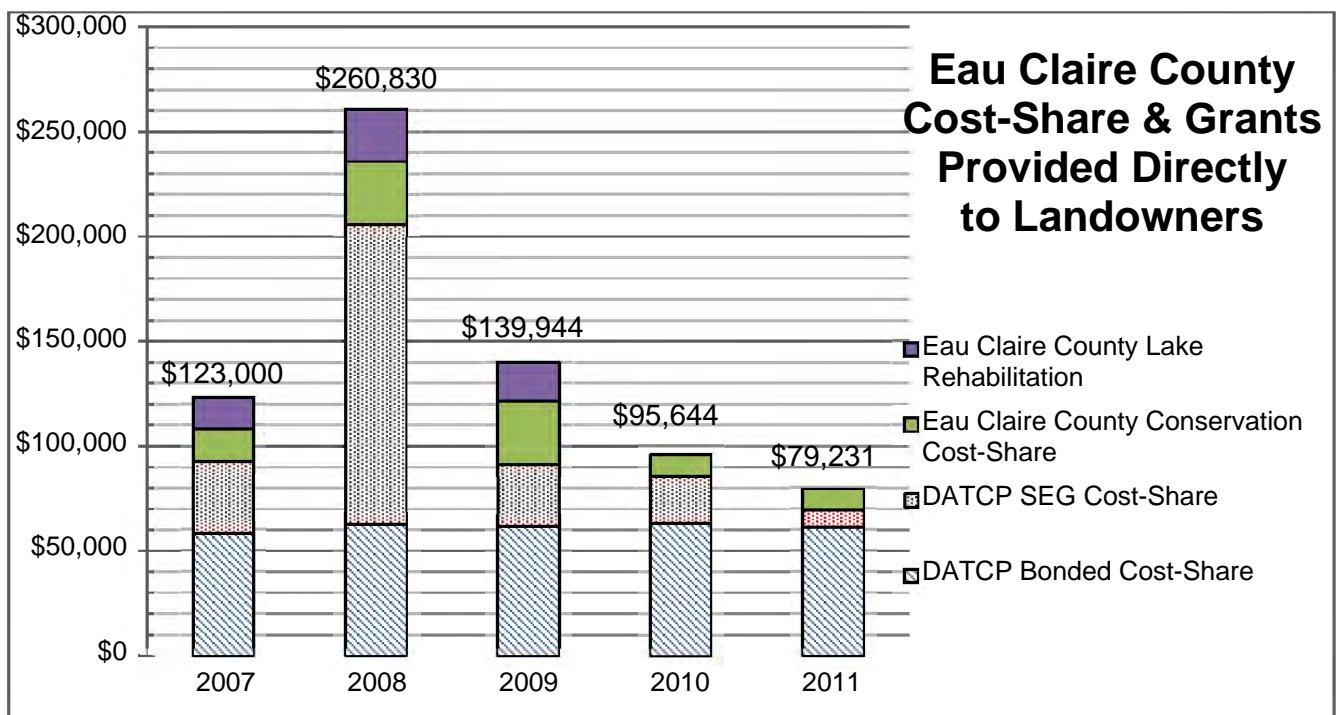


Figure 47: Recent and Anticipated Expenditures on other project related work within the Eau Claire County Land Conservation Division.

### *Funding Sources Available Directly to Landowners*

Funds are available to landowners for implementing the Performance Standards in Eau Claire County. A typical private landowner project may receive 70% funds from various state joint allocation sources (90% if landowner is eligible for economic hardship). Additional funds may be available through the County tax levy allocation (in the past the fund has provided an additional 5%) or other grant or partner's funding sources. Utilization of multiple funding sources on each project is encouraged by Eau Claire County in order to provide for installation of the largest number of BMPs that provide the largest benefit to County soil and water resources. "Lowest cost" and management changes will be considered prior to installation of costly hard practices such as barnyards and manure storage structures.

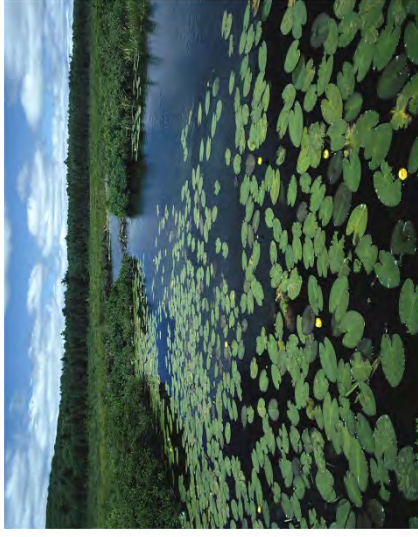
Due to the diversity of agriculture in Eau Claire County, all BMP's listed in Appendix B are eligible to receive funds and each site is assessed individually. Although the priority watershed projects have ended, the trends in other state funds, as seen in the figure below, show a relatively stable source of DATCP bonded dollars but a fluctuating and relatively unreliable source of DATCP SEG funds. However, when comparing those allocations alongside the increase in construction costs, Eau Claire County is able to fund and install fewer BMP's with the state allocation. Additional project-specific funds through the DNR's NOD/NOI and nonpoint funds will be utilized as is feasible. If Eau Claire County's cost-sharing allocation is minimized any further, LCD will likely have to reassess the cost-share award/allocation process for landowners which could include a "sign-up" period for funds.



**Figure 48: Funds that have been provided directly to landowners for best management practices.**

Costs associated with implementing the Non-Ag Urban Performance Standards on private lands, on the other hand, are typically covered by the landowner as a requirement of the Stormwater & Erosion Control ordinance. In those instances, Eau Claire County LCD's staffing costs associated with plan review and construction oversight is paid for through fees. There may be additional opportunities for implementation of all state performance standards through grant programs such as the Targeted Resource Management (TRM), Urban Nonpoint Source (NPS), River Protection, and Lake Protection grants, or something similar, through the Wisconsin DNR.

It should be noted that several other resource areas are identified and are in need of funding resources as well. Typically these items are funded on a project-specific basis and include: Lake Rehabilitation (including dredging,) Lake Planning, Stream Habitat improvement, and low head dam removal. The LCD staff will make every attempt to secure grants (Ex. DNR), develop partnerships (Ex. Trout Unlimited), and request County funds to address these important areas as well.



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## APPENDICES

Appendix A	Listing of Acronyms
Appendix B	List of Conservation Practices Implemented by Eau Claire County
Appendix C	Recent Eau Claire County P&D Performance Management Report and LCD Annual Report to County Board
Appendix D	Recent DATCP Annual Report
Appendix E	Stewardship Program Policy
Appendix F	Recent Stormwater Information & Education Activities through the CVSWF
Appendix G	LWRM Plan Survey Results
Appendix H	State Performance Standards and Prohibitions
Appendix I	Components of Watershed-Based Plans (EPA's "Nine Key Elements" plans)

## **Appendix A**

### **Listing of Acronyms**

# ACRONYMS AND INITIALS

(updated November 2011)

<b>AB</b>	Assembly Bill
<b> AIS</b>	Aquatic Invasive Species
<b>APHIS</b>	USDA Animal and Plant Health System Inspection Service
<b>ATCP</b>	WI Administrative Code: Agriculture, Trade and Consumer Protection
<b>BMPs</b>	Best Management Practices
<b>CEED</b>	Conservation, Education and Economic Development Committee
<b>CNR</b>	College of Natural Resources (UW-Stevens Point)
<b>COLIP</b>	Conservation on the Land Internship Program
<b>CR(E)P</b>	Conservation Reserve (Enhancement) Program
<b>CSP</b>	Conservation Stewardship Program (formerly Conservation Security Program)
<b>CWES</b>	Central Wisconsin Environmental Station
<b>DATCP</b>	Department of Agriculture, Trade and Consumer Protection
<b>DBA</b>	Dairy Business Association
<b>DC</b>	District Conservationist
<b>DNR</b>	Department of Natural Resources
<b>DPI</b>	Department of Public Instruction
<b>DSPS</b>	Department of Safety and Professional Services (former Dept. of Commerce)
<b>EAB</b>	Emerald Ash Borer
<b>ELUC</b>	Environment and Land Use Committee
<b>EPA</b>	Environmental Protection Agency
<b>EQIP</b>	Environmental Quality Incentives Programs
<b>FRPP</b>	Farm & Ranch Lands Protection Program
<b>FSA</b>	Farm Service Agency
<b>FSC</b>	Forest Stewardship Council
<b>GIS/GPS</b>	Geographic Information System / Geographic Positioning System
<b>GLC</b>	Great Lakes Commission
<b>GLNAC</b>	Great Lakes Nonpoint Abatement Coalition
<b>LSNERR</b>	Lake Superior National Estuarine Research Reserve
<b>LUPE</b>	Land Use, Parks & Environment (Committee)
<b>L(W)CC</b>	Land (and Water) Conservation Committee
<b>L(W)CD</b>	Land (and Water) Conservation Department
<b>LWEC</b>	Land and Water Education Committee
<b>LWRM(P)</b>	Land and Water Resource Management (Plan)
<b>MFL</b>	Managed Forest Law
<b>MOA/MOU</b>	Memorandum of Agreement / Memorandum of Understanding
<b>MRBI</b>	Mississippi River Basin Initiative
<b>NACD</b>	National Association of Conservation Districts
<b>NALMS</b>	North American Lake Management Society
<b>NCDEA</b>	National Conservation District Employees Association
<b>NEMO</b>	Nonpoint Education for Municipal Officials
<b>NERR</b>	National Estuarine Research Reserve
<b>NPS</b>	Nonpoint Source Pollution
<b>NPM</b>	Nutrient & Pest Management
<b>NR</b>	WI Administrative Code: Natural Resources
<b>NRC</b>	Natural Resource Committee
<b>NRCS</b>	Natural Resources Conservation Service
<b>PACE</b>	Purchase of Agricultural Conservation Easements (program)

<b>PDR</b>	Purchase of Development Rights
<b>PLC</b>	Principal Legislative Contact
<b>PR&amp;DC</b>	Planning, Resources & Development Committee
<b>PRAEC</b>	Planning, Resources, Agriculture & Extension Committee
<b>RPC</b>	Regional Planning Commission
<b>RC&amp;D</b>	Resource Conservation and Development
<b>SB</b>	Senate Bill
<b>SECC</b>	State Employees Combined Campaign
<b>SEG</b>	<u>Segregated</u> funding or appropriation
<b>SFI</b>	Sustainable Forestry Initiative
<b>SOC</b>	Standards Oversight Council
<b>SWCS</b>	Soil and Water Conservation Society
<b>SWRM</b>	Soil and Water Resource Management Program
<b>"T"</b>	Tolerable Soil Loss
<b>TIS</b>	Terrestrial Invasive Species
<b>TMDL</b>	Total Maximum Daily Load
<b>TRM</b>	Targeted Runoff Management
<b>USDA</b>	United States Department of Agriculture
<b>USFWS</b>	United States Fish and Wildlife Service
<b>USFS</b>	United States Forest Service
<b>USGS</b>	United States Geological Society
<b>UWEX</b>	University of Wisconsin-Extension
<b>UWSP</b>	University of Wisconsin-Stevens Point
<b>VHS</b>	Viral Hemorrhagic Septicemia – Fish Virus
<b>WAEE</b>	Wisconsin Association of Environmental Educators
<b>WALCE</b>	Wisconsin Association of Land Conservation Employees
<b>WBI</b>	Wisconsin Buffer Initiative
<b>WCA</b>	Wisconsin Counties Association
<b>WCEE</b>	Wisconsin Center for Environmental Education
<b>WEEB</b>	Wisconsin Environmental Education Board
<b>WEEF</b>	Wisconsin Environmental Education Foundation
<b>WCHF</b>	Wisconsin Conservation Hall of Fame
<b>WDA(C)P</b>	Wildlife Damage Abatement (& Claims) Program
<b>WFLGP</b>	Wisconsin Forest Landowner Grant Program
<b>WHIP</b>	Wildlife Habitat Incentives Program
<b>WICCI</b>	Wisconsin Initiative on Climate Change Impacts
<b>WLCV</b>	Wisconsin League of Conservation Voters
<b>WLI</b>	Working Lands Initiative
<b>WLWCA</b>	Wisconsin Land and Water Conservation Association
<b>(W)LWCB</b>	(Wisconsin) Land and Water Conservation Board
<b>WMMB</b>	Wisconsin Milk Marketing Board
<b>WPDES</b>	Wastewater (Wisconsin) Pollutant Discharge Elimination System (Permit Program)
<b>WQMA</b>	Water Quality Management Area
<b>WRP</b>	Wetlands Reserve Program
<b>WSTC</b>	Wisconsin State Technical Committee
<b>WTCAC</b>	Wisconsin Tribal Conservation Advisory Council
<b>WTFC</b>	Wisconsin Tree Farm Committee
<b>WWOA</b>	Wisconsin Woodland Owners Association
<b>Y&amp;E</b>	Youth and Education



## **Appendix B**

### **List of Conservation Practices Implemented by Eau Claire County**

### Use with Cost Share Applications

Tech Guide Practice Code	Practice	ATCP 50 #	Unit of Measurement
560	Access Road <i>or</i> Cattle Crossing	50.65	FT
575	Animal Trails and Walkways	50.66	FT
350	Barnyard Runoff Control System	50.64	#
360	Closure of Waste Impoundment		#
332	Contour Buffer Strips		Acres
330	Contour Farming	50.67	Acres
340	Cover Crop/Green Manure	50.68	Acres
342	Critical Area Planting		Acres
362	Diversions	50.70	FT
382	Fencing/Exclusion	50.75	FT
386	Field Border		Acres
393	Filter Strips	50.72	Acres
395	Fish Stream Improvement		#
490	Forest Site Prep		Acres
410	Grade Stabilization Structure	50.73	#
412	Grassed Waterways	50.96	Acres
561	Heavy Use Area Protection	50.74	Acres
422	Hedgerow Planting		Acres
468	Lined Waterway or Outlet		Acres
360	Manure Storage Abandonment-Closure of Waste	50.63	#
313	Manure Storage Facilities	50.62	#
635	Milk House Waste Control-Waste Treatment Strip	50.77	#
484	Mulching		Acres
590	Nutrient Management	50.78	Acres
500	Obstruction Removal		#
595	Pest Management-Field Crops	50.79	Acres
595	Pest Management-Specialty Crops		Acres
516	Pipeline		FT
528A	Prescribed Grazing-Cropland	50.80	Acres
528A	Prescribed Grazing-Pasture		Acres
329B	Residue Management Mulch-Till	50.82	Acres
329A	Residue Management No-Till & Strip-Till		Acres
393	Riparian Filter Strips (non-CREP)	50.83	Acres
558	Roof Runoff Management -Gutter	50.85	#
350	Sediment Basin-Barnyard		#
350	Sediment Basin (Non-Barnyard)		#
725	Sinkhole Treatment	50.87	#
574	Spring Development		#
313	Stacking Pad		#
580	Streambank Stabilization & Shoreline Protection	50.88	FT
585	Stripcropping	50.89	Acres
606	Subsurface Drain	50.90	#
600	Terraces	50.91	FT
612	Tree/Shrub Establishment	50.71	Acres
620	Underground Outlet	50.92	#
472	Use Exclusion		Acres
634	Waste Transfer system	50.93	#
635	Waste Water Treatment Strip	50.94	FT
638	Water and Sediment Control Structures	50.86	#
638	Water/Sediment Control Basin	50.95	#
614	Watering Facility Trough/Tank	50.76	#
642	Well Abandonment	50.97	#
657	Wetland Restoration	50.98	Acres
380	Windbreak/Shelterbelt Establishment		Acres

## **Appendix C**

### **Recent Eau Claire County P&D Performance Management Report and LCD Annual Report to County Board**

## Department of Planning and Development

The Department of Planning and Development is a multi-faceted department with six basic functions organized into five divisions and one functional area. The Land Use Controls Division administers a variety of land use and building codes. The Planning Division prepares land use reports, short and long term plans and administers the recycling program. The Land Information Division maintains real property records and establishes and maintains the public land survey system. The Land Conservation Division administers land and water conservation programs. The Housing Division staffs the County Housing Authority and administers housing programs. The department is also responsible for Emergency Management Planning. A group of support staff assists the divisions.

### Programs & Services

1. Real Property Listing
2. Land Use Code
3. Resurvey
4. Emergency Management Planning
5. Building Code
6. Water Quality Protection
7. Land Conservation Planning
8. GIS
9. Long Range Planning
10. Current Planning
11. Solid Waste Management Planning
12. Land Preservation
13. Housing Renter Programs
14. Home Buyer/Owner Programs

### Summary of Requested Addbacks (in priority order)

Description	Dept. Requested Addback	Administrator Recommendation	F&B Committee Recommendation



## Overview of Expenditures and Revenues

	2011 Budget	2012 Budget	2012 Estimate	2013 Request	2012 Approved	% Change
<b>Expenditures:</b>						
Personnel	\$ 1,697,974	\$ 1,659,976	\$ 1,544,745	\$ 1,627,296	\$ -	
Services & Supplies	2,113,207	2,288,342	2,177,281	2,219,035	-	
Equipment	50,880	155,860	179,688	67,545	-	
<b>Total Expenditures</b>	<b>\$ 3,862,061</b>	<b>\$ 4,104,178</b>	<b>\$ 3,901,714</b>	<b>\$ 3,913,876</b>	<b>\$ -</b>	<b>-4.64%</b>
<b>Revenues:</b>						
Federal/State Grants	\$ 2,146,196	\$ 1,870,272	\$ 1,996,997	\$ 1,920,950	\$ -	
Charges & Fees	482,107	975,200	978,903	948,200	-	
Miscellaneous	-	-	-	2,600	-	
Fund Balance Applied	156,211	72,630	72,630		-	
<b>Property Tax Levy</b>	<b>1,094,447</b>	<b>1,186,076</b>	<b>853,184</b>	<b>1,042,126</b>	<b>-</b>	<b>-12.14%</b>
<b>Total Revenues</b>	<b>\$ 3,878,961</b>	<b>\$ 4,104,178</b>	<b>\$ 3,901,714</b>	<b>\$ 3,913,876</b>	<b>\$ -</b>	

## Staffing

We currently have 20 full time and 1 part time positions.

### Full Time

- 1 - Director
- 1 - Land Information Specialist
- 1 - Emergency Management Coordinator
- 1 - Office Associate III
- 1 - Land Conservation Supervisor
- 2 - Conservation Technician II
- 1 - Office Associate IV
- 1 - Housing Supervisor
- 2 - Eligibility Specialists
- 1 - Land Use Controls Supervisor
- 1 - Zoning Inspector
- 1 - Building Inspector
- 1 - Senior Planner
- 1 - Surveyor
- 1 - Assistant Surveyor
- 1 - Real Property Lister
- 1 - Land Use Technician
- 1 - Conservation Technician I

### Part Time

- 1 - Office Associate III

## 2012 Program Financials

Program/Service	Real Property Listing	Land Use Code	Resurvey	Emergency Man. Planning	Building Code
<b>Expenditures:</b>					
Personnel	\$ 174,127	\$ 209,130	\$ 131,387	\$ 126,638	\$ 120,724
Services & Supplies	7,316	15,854	14,351	42,075	17,232
Equipment	-	500	-	8,900	-
<b>Total Expenditures</b>	<b>\$181,443</b>	<b>\$225,484</b>	<b>\$145,738</b>	<b>\$177,613</b>	<b>\$137,956</b>
<b>Revenues:</b>					
Federal/State Grants	\$ 300	\$ 5,000		\$ 87,856	-
Charges & Fees	2,000	95,000	2,000	15,400	100,000
Fund Balance Applied	-	-	-	-	-
<b>Property Tax Levy</b>	<b>179,143</b>	<b>125,484</b>	<b>143,738</b>	<b>74,357</b>	<b>37,956</b>
<b>Total Revenues</b>	<b>\$181,443</b>	<b>\$225,484</b>	<b>\$145,738</b>	<b>\$177,613</b>	<b>\$137,956</b>
<b>Mandated Service?</b>	Yes	Yes	Yes	Yes	Yes
<b>Committee Priority</b>	1	2	3	4	5

Program/Service	Land Cons. Planning	Water Quality Protection	GIS	Long Range Planning	Current Planning
<b>Expenditures:</b>					
Personnel	\$ 110,809	\$ 205,787	\$ 108,434	\$ 48,989	\$ 47,406
Services & Supplies	18,650	72,017	13,976	21,396	12,348
Equipment	12,645	-	-	-	-
<b>Total Expenditures</b>	<b>\$142,104</b>	<b>\$277,804</b>	<b>\$122,410</b>	<b>\$70,385</b>	<b>\$59,754</b>
<b>Revenues:</b>					
Federal/State Grants	\$ 111,500	\$ 92,500			\$ -
Charges & Fees	-	32,000	4,000	2,600	-
Fund Balance Applied	-	-	-	-	-
<b>Property Tax Levy</b>	<b>30,604</b>	<b>153,304</b>	<b>118,410</b>	<b>67,785</b>	<b>59,754</b>
<b>Total Revenues</b>	<b>\$142,104</b>	<b>\$277,804</b>	<b>\$122,410</b>	<b>\$70,385</b>	<b>\$59,754</b>
<b>Mandated Service?</b>	Yes	Yes	No	Yes	Yes
<b>Committee Priority</b>	6	7	8	9	10

Program/Service	Solid Waste Management	Land Preservation	Housing Renter Prog.	Home Buyer/ Owner Prog.	Totals
<b>Expenditures:</b>					
Personnel	\$ 43,532	\$ 83,149	\$ 108,592	\$ 108,592	\$ 1,627,296
Services & Supplies	1,068,000	11,000	899,910	4,910	\$ 2,219,035
Equipment	45,500	-	-	-	\$ 67,545
<b>Total Expenditures</b>	<b>\$1,157,032</b>	<b>\$94,149</b>	<b>\$1,008,502</b>	<b>\$113,502</b>	<b>\$3,913,876</b>
<b>Revenues:</b>					
Federal/State Grants	\$ 486,790	\$ 15,000	\$ 1,008,502	\$ 113,502	\$ 1,920,950
Charges & Fees	674,100	23,700		-	\$ 950,800
Fund Balance Applied	(3,858)	-	-	-	\$ (3,858)
<b>Property Tax Levy</b>		<b>55,449</b>	<b>-</b>	<b>-</b>	<b>\$ 1,045,984</b>
<b>Total Revenues</b>	<b>\$1,157,032</b>	<b>\$94,149</b>	<b>\$1,008,502</b>	<b>\$113,502</b>	<b>\$3,913,876</b>
<b>Mandated Service?</b>	Yes	Yes	No	No	

## Challenges

Silica sand mining posed a significant challenge in 2012 and will continue to be a challenge in 2013. Numerous department divisions are involved in managing permitting for this new and rapidly expanding industry.

Big challenges will be in the areas of Long Range Planning and Current Planning. We are required to revise the Farmland Preservation Plan to be in compliance with the completely changed Farmland Preservation Law and continue to make farmers eligible for Farmland Preservation credits (significantly increased by the state so the plan update becomes even more important). We must also amend the Zoning Ordinance to bring it into conformance with the newly adopted Comprehensive Plan. The Shoreland Zoning Ordinance will have to be amended to comply with new state regulations. We are implementing the agreement between the City of Eau Claire and the surrounding towns which will require additional changes to the zoning and subdivision codes, and the Comprehensive Plan. This must be done with only one Planning position and limited to no grant assistance from the State.

The Recycling program has stabilized and should be able to continue without major increases in fees. This program is highly dependent on state grants and fees and the new state budget in June 2013 could affect the program again. We will keep watch on state budget development in regards to this program.

Performance Management Information



#1 Real Property Listing			Budget	Levy	FTE's
			\$181,443	\$179,143	2.20
Coordinate and maintain up to date and accurate real property data for 17 municipalities. Integrate and monitor all real estate and personal property data into the Land Records software systems for assessment and taxation purposes described under Chapter 70 of the Wisconsin State Statutes. Oversee the assessment process - including those prescribed by the Department of Revenue - to state, county, municipal and private sectors.					
OUTPUTS (As of July 1, 2012.)					
			2010	2011	2012
Number of municipalities property rolls finalized during the year:			17	17	TBD
Number of municipality parcel data provided to Land Use Controls Division:			12	12	TBD
Performance Goal	Outcome Measures	Benchmark	2010	2011	2012
Fulfill the provisions of Chapter 70.09 of the Wisconsin Statutes to prepare and maintain accurate ownership and description information for all parcels of real property for 17 municipalities.	100% of the yearly assessment data conforms to current standards set by the State and County.	100%	100%	100%	TBD
To provide information and computer services on parcels of real property to those requesting that information or service.	100% of the prior year's property/land splits are provided to the county's Digital Mapping Program to benefit municipal assessors to assess property for the following year and to benefit everyone needing current parcel maps.	100%	100%	100%	TBD
To serve as the coordinator to the various taxing districts in the completion of the yearly assessment and taxation cycle.	100% of the municipal Assessors approve their assessed values contained in an Assessment Roll produced by the County.	100%	100%	100%	TBD
	100% of the municipal Clerks approve their finalized municipal assessed values produced by the County.	100%	100%	100%	TBD
	values are approved by the State Dept. of Revenue so they can convert assessed values to equalized values within the county.	100%	100%	100%	TBD



#2 Land Use Code	Budget \$225,484	Levy \$125,484	FTE's 2.50
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The land use controls division administers the County's land use codes that apply to all land and water located outside the limits of incorporated cities and villages. The code implements policies and objectives based in the county land use plan. Land use regulations control the uses of land, the height and bulk of structures and dimensions of lots or building sites and yards.

#### OUTPUTS

	2009	2010	2011	YTD2012
Number of land use permits issued:	342	296	431	141
Number of land use inspections:	500	450	699	250
Number of conditional land use permits issued:	30	24	23	10
Number of land use variance and appeals reviewed:	5	6	3	0
Number of land use rezonings processed:	12	7	9	8
Number of land divisions (lots created):	51	51	26	15
Number of land use complaints received:	89	92	55	31
Number of land use complaints confirmed:	71	76	45	21
Number of land use text amendments:	2	1	0	0
Amount of land use revenue generated:	Includes rev. from the annual extensions for cell towers and NMMR plans. (YTD: 7/16/12)			\$109,859

Performance Goal	Outcome Measures	Benchmark	2009	2010	2011	YTD2012
To work with County citizens to ensure the use of land and buildings are compatible with nearby, existing and planned land uses.	95 % of the land use permits will be reviewed for compliance with the County Code within 5 working days of filing the permit with the Department.	95%	95%	97%	98%	99%
	100 % of the land use permit applications where the building setback is shown on the site plan to be within 15 feet of a required setback distance will be inspected within 3 working days, prior to issuance of the permit.	100%	98%	98%	100%	100%
To reduce zoning violations.	95 % of all complaints filed with the department will be inspected within 2 working days from the date of the complaint.	95%	90%	95%	95%	98%
	90 % of all written compliance notices will be issued within 15 working days where staff has verified that a violation exists.	90%	95%	90%	95%	95%

#3 Resurvey			Budget	Levy	FTE's
			\$145,738	\$143,738	1.66
A Dependent Resurvey of the United States Public Land Survey System (PLSS) that comprises Eau Claire County. The Public Land Survey System is the foundation for locating and describing all the real estate within the County. A major component includes the perpetual maintenance of the corners, accessory survey monuments, together with all supporting documentation.					
OUTPUTS (As of July 1, 2012.)					
			2010	2011	2012
Number of corners correctly maintained and perpetuated during year:			79	66	46
Square mile base maps prepared for computerized mapping during year:			9	9	9
Survey documents prepared, cataloged and filed during year:			213	158	80
Performance Goal	Outcome Measures	Benchmark	2010	2011	2012
Determine that each Public Land Survey System (PLSS) Corner is physically monumented in its correct location.	100% of each corner monument perpetuated will be to standards of the United States Code, Title 43, Chapter 17; Wisconsin Statute 59.74 and the Wisconsin Administrative Code A-E 7.	100%	100%	100%	100%
Obtain the geographical location (i.e.: Latitude, Longitude) of each corner monument and prepare the supporting documentation and base map for the County's Computerized Mapping and its use in the Geographic Information System (GIS).	100% of each corner monument perpetuated will have a measured Latitude and Longitude, which allows construction of the county base parcel maps in the County's Geographic Information System (GIS) and for tracking of parcels for the Real Property Program.	100%	100%	100%	100%
Fulfill the requirements of Wisconsin Statute 59.74 by accurately perpetuating the location of 5% of all government corners monuments within the County on a yearly basis.	100% of the geographic locations of each monument perpetuated will be to standards of the Federal Geographic Data Committee under the National Geospatial Standards.	100%	100%	100%	100%
	100% of the Government Corner Monuments are perpetuated to the requirements of Wisconsin Statute 59.74.	100%	100%	100%	100%

#4 Emergency Management Planning		Budget \$177,613	Levy \$74,357		FTE's 1.60
Emergency Management Planning provides planning, training, and exercise to clarify disaster response roles and issues relating to all community threats in preparation for development of response plans and agency protocols. With emergency service departments and community organizations, identify roles, resources, and management needs that exceed local capabilities during disaster response in order to locate disaster assistance through regional, state, and federal agencies.					
OUTPUTS					
		2010	2011	YTD 2012	
number of media events to provide information on disaster preparedness:		9	N/A	6	
number of Emergency Operation Plans updated during the year: (13 ANNEXES)		13	N/A	7	
number of Emergency Off Site Plans business updated per year		4	N/A	6	
number of emergency response exercises that are supported during the year		2	N/A	1	
number of Hazard Mitigation Plan funding grant request ( updated every 5 years)		1	N/A	1	
number of annual grants 1. EPCRA and 2. EMPG		2	N/A	2	
Number of HazMat Team spill responses:		84	N/A	0	
Number of pre-planned Red Cross activities		1	N/A	1	
Number of Disaster Ready Chippewa Valley attendees		16	N/A	2	
Performance Goal	Outcome Measures	Benchmark	2010	2011	YTD 2011
Provide information to residents of Eau Claire County, on safety measures to mitigate, prepare for, respond to, and recover from disaster situations.	100% Complete media campaigns annually as listed below - Tornado Awareness Campaign - EPCRA Outreach Campaign - Additional Outreach Campaigns - To provide a minimum of two speaking engagements before 12-31-2011 to improve public awareness with an evaluation tool before and after to measure change in hazard mitigation awareness.	100%	100%	N/A	100%
Update Emergency Operation Plans annually: (13 ANNEXES) to aid in protecting the public.	100% Complete emergency operations plans and post on website <a href="http://www.wiesponder.com">www.wiesponder.com</a> for use by emergency services and others who use plans by 12-31-2010	100%	100%	N/A	54%
Develop Emergency Off Site Plans for business storing extremely hazardous materials.	100 % Update 4 plans that are approved by the state of WI to be used as a response tool for emergency responders.	100%	100%	N/A	100%
Develop emergency response exercises to improve response to disaster situations	100% Provide planning support and exercise design for 2 exercises by 12-31-2010.	100.0%	100.0%	N/A	50%
Complete grant applications to obtain grant dollars to update the Hazard Mitigation Plan for both Eau Claire County and City of Eau Claire. (updated every 5 years) The amount of grant is \$26,250.00	100% complete grant application for consulting work on the county hazard mitigation plan and submit by 9-15-2010		100.0%	N/A	100%
Complete Grant program to defray program costs.	100% Complete State and Federal grant programs to receive \$75,000 toward emergency management program expenses for 2010	100%	100%	N/A	100%
Assist the county to maintain a qualified hazardous material spill response team.	100% Support continuation of the hazardous materials spill response team contract to remain prepared for chemical spill incidents like the recent WRR fire.	100%	100.0%	N/A	100%
Work with the local chapter of the American Red Cross to distribute family disaster preparedness planning information to residents at a booth at the Northern Wisconsin State Fair.	100 % completed task is measured by observation of activity and material distributed at the Northern Wisconsin State Fair booth		100.0%	N/A	100%
Increase the size of membership in the Disaster Ready Chippewa Valley (DRCV) organization to promote better communications between the public and private sector as it relates to disaster mitigation and response.	65% Provide support to increase membership in the Disaster Ready Chippewa Valley public private partnership program by 50 people to grow resilience to disaster situations by 4/30/2011.	100%	65.0%	N/A	N/A

#5 Building Code		Budget	Levy			FTE's
		\$137,956	\$37,956			1.50
The land use controls division enforces the one and two family dwelling and commercial building codes.						
OUTPUTS						
			2009	2010	2011	YTD2012
Number of building permits issued under UDC program::			152	120	141	88
Number of building permits issued for new dwellings:			75	61	56	48
Number of building permits issued for commercial buildings:			14	23	18	14
Amount of revenue generated in UDC program:						
Amount of revenue generated in Commercial:			\$4,838	\$6,805	\$6,075	\$4,065
Number of inspections:			600	510	500	300
Number of complaints:			30	30	25	10
Number of final occupancy notices:			N/A	N/A		
Performance Goal	Outcome Measures	Benchmark	2009	2010	2011	YTD2012
To promote the development of quality housing, public buildings and places of employment.	95% of all Uniform Dwelling Code or Commercial building permit applications will be reviewed and issued within 5 working days after being filed with the department.	95%	95%	98%	98%	99%
	95 % of the required inspections for the Uniform Dwelling Code and Commercial Building Permits will be completed within 2 working days following the day of the notification.	95%	97%	97%	98%	99%
Performance Goal	Outcome Measures	Benchmark	2009	2010	2011	YTD2012
	90 % of the Housing Division inspection requests will be completed within five working days.	90%	92%	92%	95%	92%
	95 % of the violation notices for unsafe building conditions will be issued within 3 working days after being inspected by department.	95%	100%	100%	100%	100%
	95 % of the violations will be re-inspected within 30 working days after notice is given to confirm compliance with the enforcement orders.	95%	100%	90%	92%	95%



#6 Land Conservation Planning			Budget	Levy		FTE's
			\$142,104	\$30,604		1.40
The Land Conservation Planning Program is comprised of a Comprehensive Land and Water Resource Management Planning document. This Plan is a long-range document, updated every five years.						
OUTPUTS						
			2010	YTD11	2011	YTD12*
Number of Land Conservation Committee meetings coordinated:			12	4	12	6
Number of agencies collaborate with for LWRM planning:			26	26	26	27
Number of notices placed for public meetings:			25	8	26	17
Number of farms evaluated for conservation needs:			202	N/A	75	64
Performance Goal	Outcome Measures	Benchmark	2010	YTD11	2011	YTD12*
To evaluate conservation needs in Eau Claire County and update the Land and Water Resource Management Plan as required by state	The Land and Water Resource Management Plan will be updated in accordance with timelines outlined in the state statutes.	Yes	100.0%	N/A	100.0%	20.0%
Performance Goal	Outcome Measures	Benchmark	2010	YTD11	2011	YTD12*
To gain guidance in evaluating and implementing land and water resource protection through feedback from the Land Conservation Commission, comprised of County Board Supervisors and a wide range of	100% of agenda packets for the Land Conservation Commission meetings will be sent to commission members at least one week prior to meeting.	100%	100.0%	100.0%	70.0%	80.0%
To guide the reduction of soil loss rates and water pollution in the County by incorporating Wisconsin's Soil and Water Resource Management and Runoff Management Rules (ATCP 50 and NR 151).	100% of ordinance changes resulting from updates in the Wisconsin's Ag & Urban Non Point Pollution Runoff Rules will be adopted within 90 days of review of the rules.		N/A	N/A	N/A	N/A
	Provide at least 5 public outreach or education presentations / workshops.	5	100%	100%	100%	100%
	Provide at least 50 one-on-one outreach or education contacts to Eau Claire County residents.	50	100.0%	80.0%	100.0%	100.0%
	Provide at least 8 radio broadcasts during the year on Land Conservation issues of interest or need to Eau Claire County residents.	8	100.0%	80.0%	100.0%	100.0%

\*YTD numbers reflect activity through June 30, 2012

Budget numbers reflect approved 2012 budget

#7 Water Quality Protection		Budget	Levy			FTE's
		\$277,804	\$153,304			2.60
Water quality protection is designed to protect the counties water resources by reducing the inputs of nutrients and sediments resulting from storm water runoff from construction sites and agricultural activities. It encompasses 8 different sub-programs including; Storm Water Planning/DNR Storm Water Discharge Permit, Lake Rehabilitation and Administration of DNR Lake Management Grants, Groundwater Protection, County Cost-Share, Administration of State Ag & Urban Non Point Pollution Standards, Animal Waste Ordinance Administration and Nutrient Management Planning. This program is mandated through the state agriculture and urban non-point pollution statutes.						
OUTPUTS						
		2010	YTD11	2011	YTD12*	
Number of landowner contacts:		200+	N/A	200+	N/A	
Number of acres planned for NPM:		22,781	16,604	16,604	17,813	
Number of conservation practices installed:		9	4	11	3	
Number of erosion control & stormwater permits issued:		63	31	50	35	
Number of waste storage & abandonment permits issued:		4	1	1	2	
Number of acres controlled to allowable soil lost (T) through RUSLE 2:		N/A	N/A	39,000	24,000	
Performance Goal	Outcome Measures	Benchmark	2010	YTD11	2011	YTD12*
To increase public awareness of State and County agriculture and non-point pollution standards.	Maintain or increase the level of participation in the Nutrient Management Program.,		100.0%	100.0%	100.0%	100.0%
	Offer at least two Nutrient Management Planning workshops during the year.		100.0%	50.0%	100.0%	50.0%
	Conduct at least 50 face to face contacts with local farmers.		100.0%	100.0%	100.0%	100.0%
	In annual surveys consistently show a reduced need for chemical fertilizer.		100.0%	100.0%	100.0%	100.0%
Performance Goal	Outcome Measures	Benchmark	2010	YTD11	2011	YTD12*
To reduce sediment delivery and nutrient impacts to the water resources of Eau Claire County.	Total suspended solids removal standards for the MS4 permit will be met according to required timelines.		N/A	N/A	N/A	N/A
To reduce environmental impacts due to development through enforcement of State non-point pollution standards and Eau Claire County's Storm Water Ordinance.	Spend at least 90% of the allocation of County Cost Share and State Land and Water Resource Management Cost Share funds for the installation of conservation best management practices geared towards improving water quality and reducing erosion from local farmland.	90%	100%	100%	100%	20%
	100% of Erosion Control, Stormwater and Uniform Dwelling Code (UDC) permits will be issued in accordance with Eau Claire County's Storm Water Management and Erosion Control Ordinance	100%	100.0%	100.0%	100.0%	100.0%
	Allocate at least 80% of DATCP funds for Nutrient Management and Land and Water Resource Management BMP installation.	80%	100%	100%	100%	70%

\*YTD numbers reflect activity through June 30, 2012

Budget numbers reflect approved 2012 budget

#8 Geographic Information System (GIS)		8 \$122,410	Levy \$118,410	FTE's 1.37	
The Geographic Information System (GIS) develops a variety of digital map data used throughout the county. It's responsible for the production and improvement of county base maps including: Tax Parcel, Street Centerline & Address 9-1-1, Supervisory Districts, and others. The program provides access to public records and fulfills mapping and data-distribution requests.					
OUTPUTS (As of July 1, 2012.)					
Number of county base parcel maps produced during year:			2010	2011	2012
			9	9	9
<u>Performance Goal</u>	<u>Outcome Measures</u>	<u>Benchmark</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
The continued development and expansion of a countywide GIS, as it is a crucial component to land records modernization.	100% of Eau Claire County departments will have access to the GIS program map data.	100%	100%	100%	100%
	100% of Eau Claire County departments will be provided with annual training and educational opportunities facilitated by the GIS program.	100%	100%	100%	100%
Provide leadership in identifying and addressing expansion, data development, related infrastructure, training and education GIS needs.	100 % of the GIS Program's solutions will conform to Eau Claire County's Land Records Modernization Plan.	100%	100%	100%	100%
Actively coordinate data-distribution, both online and through traditional data requests.	GIS Web Page will receive an average of 30,000 pageviews per month; providing users access to GIS information and application services online.	30000	100%	100%	100%

<b>#9 Long Range Planning</b>	<b>Budget</b> \$70,385	<b>Levy</b> \$70,385	<b>FTE's</b> 0.60
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Using appropriate planning process and other models, prepare, manage the preparation of, or assist in the preparation or amendment of long-range plans and reports including: Comprehensive Plans; Farmland Preservation Plan; Land Records Modernization Plan; County Outdoor Recreation Plan; and other reports regarding long-range issues as deemed necessary.

#### OUTPUTS

	2010	2011	YTD 2012
Eau Claire County Comprehensive Plan.	1	1	2
Eau Claire County Farmland Preservation Plan.	0	0	1
Eau Claire County Land Records Modernization Plan.	1	0	0
Eau Claire County Outdoor Recreation Plan.	0	0	1
Other plans and reports on various issues as directed.	0	0	0

Performance Goal	Outcome Measures	Benchmark	2010	2011	YTD 2012
Establish procedures for preparing, updating and amending long-range plans for Eau Claire County, in accord with required or otherwise appropriate intervals and within appropriate timeframes.	Ensure that 100% of long range plans are consistent with statutory requirements and completed in the appropriate timeframes.	100%	100%	100%	100%
Apply planning process and other models to evaluate more specific issues that Eau Claire County frequently needs to address, to evaluate and formulate actions or plans that can be taken to address those issues.	Complete 100% of other plans and reports on long-range issues within a timeframe that does not exceed 1½ times the projected timeframe.	100%	100%	100%	100%
Measure the effectiveness of long-range plans by establishing benchmarks that describe current resources and conditions that are expected to be protected, maintained or improved during the planning horizon.	Complete 100% of annual reports documenting consistency of development with the county's Comprehensive Plan and Farmland Preservation Plan, and the status of conditions that are intended to be protected, maintained or improved.	100%	100% Annual Reports to be prepared end of yr	100% Annual Reports to be prepared end of yr	100% Annual Reports to be prepared end of yr



<b>#10 Current Planning</b>	<b>Budget</b> \$59,754	<b>Levy</b> \$59,754	<b>FTE's</b> 0.58
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Perform routine tasks and services that support or are consistent with long-range planning efforts including: maintain and manage land use codes; evaluate petitions for rezoning and applications for conditional use permits; zoning code amendments; maintain and assign property addresses; perform annual Census tasks and assist in the decennial Census; and assist with emergency management planning.

#### OUTPUTS

	2009	2010	2011	YTD 2012
Number of land use codes assigned to all new and existing parcels:		167	N/A	N/A
Number of zoning code amendments prepared:		0	2	3
Number of staff reports prepared:		0	11	10
Number of new addresses assigned and addresses corrected:		49	101	118
Number of new and corrected land use codes input into the Assessment Office system:		118	N/A	N/A
Number of new and corrected addresses input into the Assessment Office system:		49	101	118

Performance Goal	Outcome Measures	Benchmark	2009	2010	2011	YTD 2012
Ensure that all parcels are assigned accurate land use codes.	100% of land use codes assigned to new parcels will be accurate.	100%		100%	N/A	N/A
	100% of land use code corrections are completed within 1 week of notification of a land use code error.	100%		97%	N/A	N/A

Performance Goal	Outcome Measures	Benchmark	2009	2010	2011	YTD 2012
Ensure that approved Rezoning and Conditional Use Permits issued are consistent with the Eau Claire County Comprehensive Plan.	100% of zoning code amendments are consistent with the Eau Claire County Comprehensive Plan.	100%		100%	100%	100%
Ensure assignment of accurate addresses for new structures and make address corrections wherever necessary.	100% of new addresses assigned are accurate.	100%		94%	100%	100%
	100% of property address corrections are completed within 3 working days of notification of an addressing error.	100%		20%	N/A	N/A
Prepare for and prompt a high level of participation in the Decennial Census.	80% of county households participate in the Decennial Census.	80%		85%	N/A	N/A

Performance Goal	Outcome Measures	Benchmark	2009	2010	2011	YTD 2012
Submit information on municipal boundaries to Census Bureau each year.	100% of boundary maps for US Census Bureau are completed within the specified timetable by the Bureau.	100%	100.0%	100.0%	100%	N/A
Participate in the LUCA program during each Decennial Census	100% of LUCA maps and databases are reviewed and returned to the US Census Bureau in accord with the LUCA program timetable.	100%	100%	100.0%	100%	N/A

<b>#11 Solid Waste Management</b>	<b>Budget</b> \$1,157,032	<b>Levy</b> \$0	<b>FTE's</b> 0.55
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Encourage and instruct citizens to reduce the amount of waste they generate, to reuse items that still can be used, to recycle waste that is recyclable, and provide citizens with the ability to safely dispose of toxic and hazardous substances they may generate in their homes, and to encourage the use of environmentally friendly alternatives to hazardous and toxic substances.

#### OUTPUTS

	2009	2010	2011	YTD 2012
Number of "hits" at county solid waste information webpage:		40,116	N/A	10,625
Number of responses to phone inquiries regarding solid waste management:		262	N/A	N/A
Number of households participating in curbside recycling:	27,277	27,598	27,443	30,886
Tons of recyclables collected and recycled:	4,784 tons	2,093 tons	5,772.87	
Number of households participating in Clean Sweep:	983	920	749	
Pounds of household hazardous waste collected and disposed of in Clean Sweep:	65835 lbs	23345 lbs	55567 lbs	
Number of households participating in Waste Medication Collection: (bags collected)		1,372	N/A	N/A
Pounds of waste medication collected and disposed of:	1,317 lbs	710 lbs	1,345 lbs	739 as of 7/1/12

Performance Goal	Outcome Measures	Benchmark	2009	2010	2011	YTD 2012
Establish an information and education program that will encourage citizens to reduce, reuse, and recycle waste, to compost organic waste, to properly dispose of household hazardous waste, and to use environmentally friendly alternatives to household hazardous waste.	All residents receive current up-to-date educational information about Recycling	100%		100%	90%	90%
	5% of residents surveyed at Clean Sweep events indicate greater use of environmentally friendly alternatives to materials with hazardous substances	5%		revising survey to gather info	N/A	N/A

Provide citizens with a satisfactory, cost-effective, and efficient program for the collection of recyclables.	Recycling program ranks in the top 25% of all programs throughout the state in cost per ton of recycled material <sup>1</sup>	Top 25%		gathering info	N/A	55% (23/42)
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Performance Goal	Outcome Measures	Benchmark	2009	2010	2011	YTD 2012
Increase the number of households in single-family, two-family, three-family and four-family dwelling units that are recycling in Eau Claire	95% of households in Eau Claire County participate in recycling	95%		92%	N/A	85.9% <sup>2</sup>

Provide citizens with a cost-effective and efficient program for the collection and disposal of household hazardous waste.	Lbs. recycled per person higher than that of the state-wide average <sup>1</sup> Costs per ton for recycling lower than that of the state-wide average <sup>2</sup>			revising survey to	N/A	114.32 lbs vs 121.39 lbs for State <sup>3</sup> \$187.10 vs. \$202.52 for State <sup>3</sup>
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Provide citizens with a cost-effective and efficient program for the collection and disposal of unwanted and unused medications.	Lbs. recycled per person higher than that of the state-wide average <sup>2</sup> Costs per ton for recycling lower than that of the state-wide average <sup>2</sup>			preparing survey to gather info	N/A	N/A - Sheriff's Dept no longer tracks # of N/A - State does not track or fund this
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<sup>1</sup> Comparable RU's with population >50,000

<sup>2</sup> City of Eau Claire @ 80.8%

<sup>3</sup> Data for EC County does not include residents within residential units with more than 4 units, though lbs and costs are based on full residential population

<b>#12 Land Preservation</b>	Budget \$94,149	Levy \$55,449			FTE's 1.00
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The Land Preservation Program is designed to protect the land resources, specifically by reducing soil losses in the County. The program consists of two sub-programs; Farmland Preservation Compliance, Wildlife Damage Program and Conservation Tree Sales.

#### OUTPUTS

	2010	YTD11	2011	YTD12*
Number of acres enrolled in Farmland Preservation"	N/A	N/A	39,136	39,136
Number of status reviews completed:	80	14	55	32
Number of trees sold:	27300	24973	24975	23525
Total amount of tree sales:	\$26,953	\$25,883	\$16,736	\$15,919
Number of wildlife complaints:	12	8	6	3
Number of shooting permits issued:	6	3	4	1

Performance Goal	Outcome Measures	Benchmark	2010	YTD11	2011	YTD12*
Promote and educate farm community about the benefits of participating in the Farmland Preservation Program (FPP).	To maintain or increase the number of Farmland Preservation participants in Eau Claire County	100	100.0%	100.0%	100.0%	100.0%
	Review/revise at least 50 conservation plans each year to evaluate whether or not farmers are in compliance with FPP guidelines.	50	100.0%	100.0%	100.0%	70.0%
To provide a diverse and economical means for residents to reduce soil erosion and enhance the aesthetic value of their landscape through the Tree Sales Program.	Maintain at least 95% satisfaction with County residents participating in the annual Tree Sale Program	95%	99.00%	N/A	N/A	100.00%
Provide damage prevention assistance and partial compensation to land owners when wildlife damages their agricultural crops through administration of the WI-DNR Wildlife Damage Program.	Respond within 5 days to wildlife damage claims and verify wildlife damage to crops.	5	100.0%	100.0%	100.0%	100.0%

\* YTD numbers reflect activity through June 30, 2012

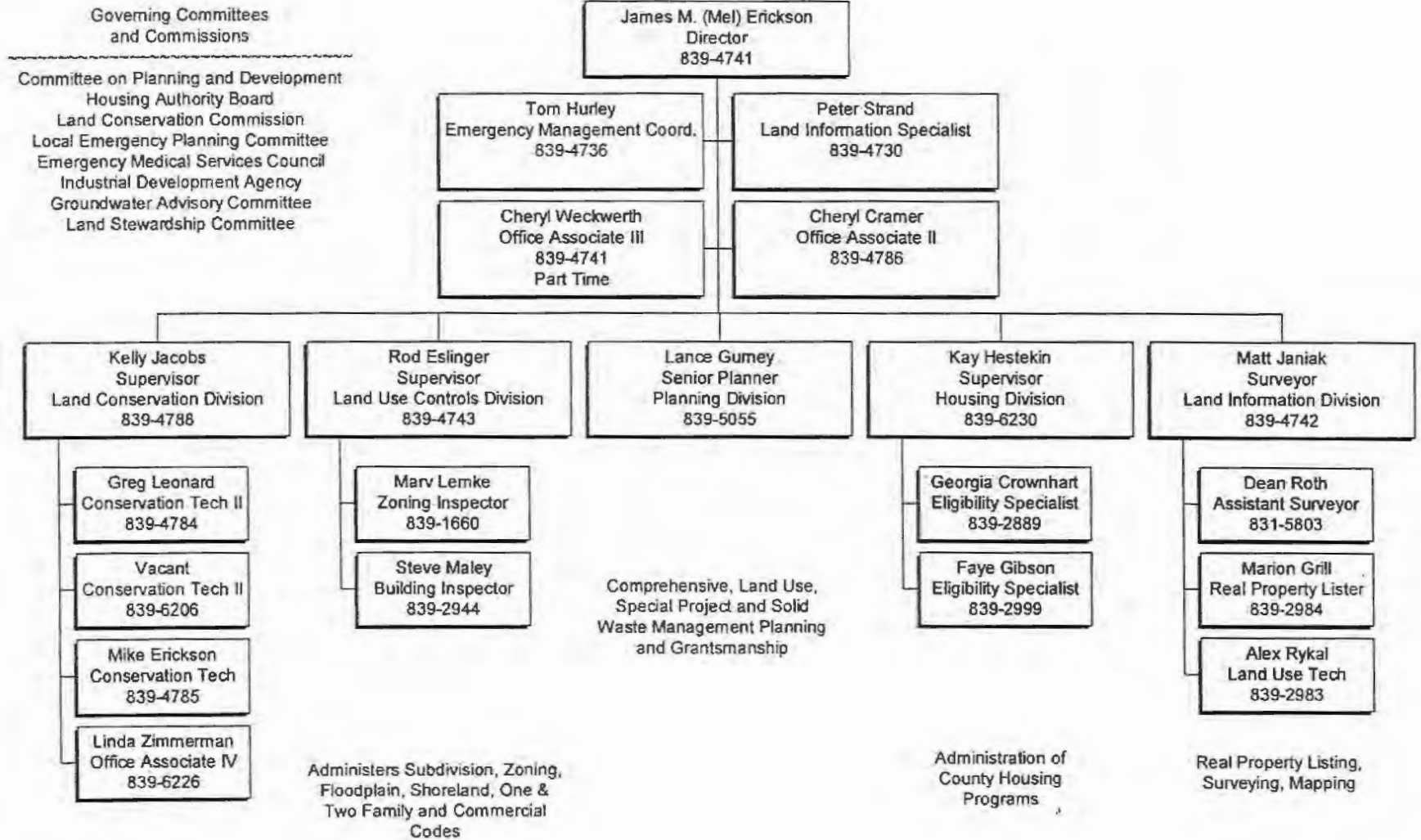
Budget numbers reflect approved 2012 budget

#13 Housing Renter Programs			Budget	Levy	FTE's
			\$1,008,502	\$0	1.50
Provide assistance to low- and very-low income families through housing vouchers, public housing, assistance in achieving self-sufficiency, security deposit loans and senior housing.					
OUTPUTS					
			2010	2011	YTD12
Number of Housing Renter applications received and processed:			377	386	191
Number of housing renter dwelling units inspected:			279	231	115
Number of housing renter dwelling units leased:			2446	2939	1485
Number of Housing Renter workshops, briefings, counseling sessions held:			27	35	9
Number of dwelling units constructed during year:			0	0	0
Number of dwelling units improved or repaired during year:			38	97	44
Amount of rent subsidies paid during year:			\$846,964	\$868,024	\$448,470
Performance Goal	Outcome Measures	Benchmark	2010	2011	YTD12
To provide security deposit and rental assistance to families for affordable, decent, safe, and sanitary housing.	At least 95% of allocated rent subsidy funds will be spent, up to a maximum of the number of available incremental units.	95%	99.3%	99.3%	101%
	At least 95% of security deposit loan funds repaid during the current year will be spent.	95%	95.3%	133.6%	65.00%
To provide affordable, decent and safe rental housing for families, the elderly, and persons with disabilities.	100% of assisted/owned dwelling units meet applicable quality standards prior to and during continued assistance/occupancy following completion of needed repairs.	100%	100.0%	100.0%	100%
	Maintain 95% occupancy of Authority-owned units.	95%	98.5%	94.4%	88.30%
To help voucher and public housing families obtain the skills and experience necessary to enable them to obtain employment that will lead to economic independence and self-sufficiency and prepare them	100% of FSS participants will follow their Individual Action Plans.	100%	100.0%	100.0%	100%
	90% of FSS participants will be satisfied with services.	90%	100.0%	85.7%	100%



#14 Home Buyer/Owner Programs			Budget	Levy	FTE's
			\$113,502	\$0	1.50
Provide housing rehabilitation, construction and down payment/closing cost loans to low- and moderate-income families. <b>Housing Rehabilitation Loans</b> -- Loans are made to homebuyers, owners and landlords for rehabilitation and to help Chippewa Valley Habitat for Humanity to build new homes. <b>Down Payment/Closing Cost Loans</b> - Homebuyer counseling is provided for all down payment/closing cost loans, FSS participants, and area financial institutions.					
OUTPUTS					
			2010	2011	YTD12
Number of application received:			54	32	12
Number of applications processed:			46	17	6
Number of Home Buyer/Owner dwelling units inspected:			47	18	5
Number of Home Buyer/Owner workshops, briefing, and counseling sessions:			54	26	6
Number of Home Buyer/Owner dwelling units purchased:			3	0	0
Number of Home Buyer/Owner dwelling units constructed:			2	0	2
Number of Home Buyer/Owner dwelling units improved/repared:			34	17	5
Performance Goal	Outcome Measures	Benchmark	2010	2011	YTD12
To provide assistance for necessary home rehabilitation and other vital improvements to dwelling units.	At least 95% of allocated down payment/closing cost and rehabilitation funds will be spent.	95%	99.0%	119.5%	100%
	At least 95% of down payment/closing cost and rehabilitation loan funds repaid during the current year will be spent or obligated as matching funds.	95%	301.0%	109.3%	68.14%
To provide essential home purchase assistance to households seeking to own decent, safe, affordable housing.	100% of assisted homes will meet applicable quality standards when	100%	100.0%	100.0%	100%
	95% of participants will be satisfied with services.	95%	100.0%	100.0%	100%

# Organization Chart





# **EAU CLAIRE COUNTY LAND CONSERVATION DIVISION**

## **2011 ANNUAL REPORT**

### **LAND CONSERVATION COMMISSION**

Dan Walters ..... Chair  
Robin Leary ..... Vice Chair  
Gary Gibson ..... County Board Member  
Will Fantle ..... County Board Member  
Tami Schraufnagel ..... County Board Member  
Ray Henning (Jody Hahn) ..... County Board Member  
Jim Volbrecht ..... Farmer Representative  
Watford Seguin ..... FSA Representative

### **DEPARTMENT OF PLANNING & DEVELOPMENT**

#### **LAND CONSERVATION DIVISION STAFF**

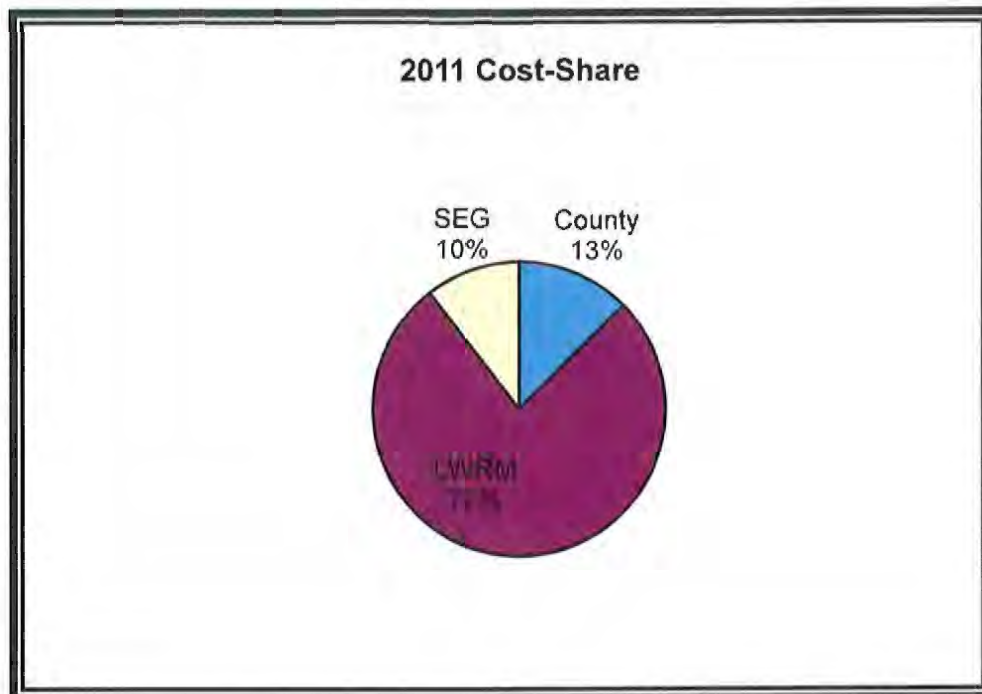
Kelly Jacobs (Vacant) ..... Land Conservation Supervisor  
Linda Zimmerman ..... Office Associate  
Mike Erickson ..... Conservation Technician I  
Greg Leonard (Gary Osbourne) ..... Conservation Technician II (Planner)  
Ronnie Williams (Mark Grabarczyk) .. Conservation Technician II (Engineer)

*The names listed within parentheses represent former members of the  
Department/Committee that actively served for a portion of 2011.*

### **CONSERVATION PRACTICES INSTALLED**

The Land Conservation Division staff provides technical assistance for the survey, design, construction supervision, and certification of conservation practices in the County. This program provides financial assistance for the installation of conservation practices and helps to improve the water quality in Eau Claire County. By leveraging county and state funds to maximize investment, landowners have installed 90 conservation practices throughout the county.

<b>County Cost Share .....</b>	<b>\$ 10,000.00</b>
<b>Land &amp; Water Resources Management Grant (DATCP) .....</b>	<b>\$ 61,931.00</b>
<b>SEG Grant (DATCP) .....</b>	<b>\$ 8,330.00</b>
<b>TOTAL FUNDS .....</b>	<b>\$ 80,261.00</b>



Project Type	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Barriaryd Run-Off Control System	7	3	5	4	1	3	2	1	1	1
Erosion Control Structure	0	0	0	0	0	1	0	0	0	0
Grassed Waterway/Repair	6	9	7	5	2	2	3	5	2	3
Lake Shore Buffers	0	0	0	0	0	4	1	0	0	0
Nutrient Management Plan	76	40	67	80	64	70	74	76	88	74
Heavy Use Area Protection	0	0	0	0	0	1	1	2	1	2
Well Abandonment	9	9	13	14	13	15	4	10	14	4
Access Road	1	1	0	0	0	0	2	2	0	5
Sediment Basin	0	0	1	0	0	1	0	0	0	1
Manure Storage Abandonment	0	0	0	0	0	0	1	2	3	0
Spring Development	0	0	0	0	0	0	1	0	0	0
Fuel Containment Vessel	0	0	0	0	0	0	1	2	0	0
Waste Storage Structure	0	2	1	1	0	0	0	4	0	0
<b>Total Projects Completed</b>	<b>99</b>	<b>64</b>	<b>94</b>	<b>104</b>	<b>80</b>	<b>97</b>	<b>90</b>	<b>102</b>	<b>109</b>	<b>90</b>

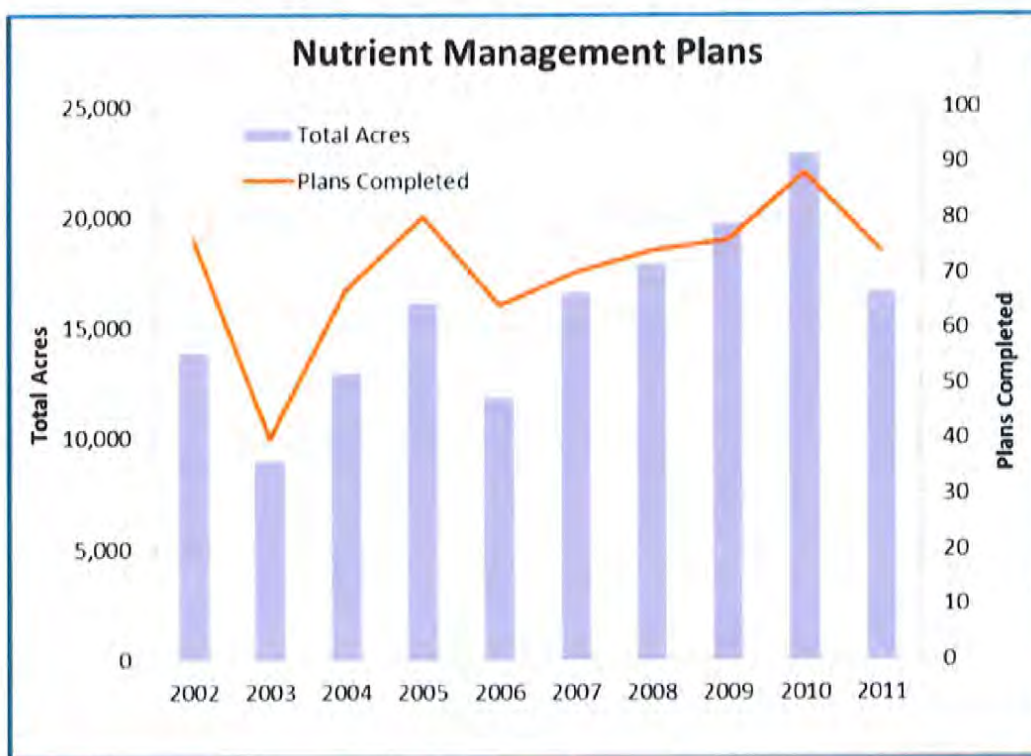


### **NUTRIENT MANAGEMENT PROGRAM**

Land Conservation Division and UW-Extension staff teach farmers to develop their own plans to manage livestock manure. This is critical to using manure as fertilizer and not letting it wash off into nearby streams.

Training workshops have been expanded in a few of ways. One way includes discussion on the State's Agricultural Performance Standards within Wisconsin Administrative Code NR-151. A couple of other opportunities within the workshops give farmers the option to develop their Nutrient Management Plan with or without use of the computer program known as Snap-Plus, and to encourage farmers without livestock to develop and update their Nutrient Management Plan.

Year	Plans Completed	Total Acres
2002	76	13,869
2003	40	9,034
2004	67	12,946
2005	80	16,105
2006	64	11,862
2007	70	16,617
2008	74	17,858
2009	76	19,672
2010	88	22,895
2011	74	16,604



## **STORMWATER MANAGEMENT**

The Eau Claire County Board finds that uncontrolled storm water runoff and construction site erosion from land development and land disturbing activity can have significant adverse impacts upon local water resources and the health, safety and general welfare of the community and diminish the public enjoyment and use of natural resources.

The general purpose of the Stormwater Management & Erosion Control Ordinance is to establish regulatory requirements for land development and land disturbing activities aimed to minimize the threats to public health, safety, welfare, and the natural resources of Eau Claire County from construction site erosion and post-construction storm water runoff.

Eau Claire County was approved by DNR for **Permit Coverage** under the Wisconsin Pollution Discharge Elimination System. Through the Stormwater Management & Erosion Control Ordinance, Eau Claire County Land Conservation Division performed the following reviews in 2011:

<u>Erosion / Stormwater / CSM Plans Reviewed/Approved</u>	<u>Total</u>
Erosion Control .....	60
Storm Water Plan Reviews .....	6
Certified Survey Maps.....	22

The **Chippewa Valley Storm Water Forum** continued to meet monthly throughout 2011. The forum is comprised of 12 members from various cities, counties and townships. The goal of the forum is to work in a collaborative effort to fulfill mandated stormwater requirements in a cost-effective and cooperative manner. In 2011, the Chippewa Valley Storm Water Forum continued to utilize a DNR Urban Stormwater Grant to help further develop an Information and Education program for the Chippewa Valley in a cost effective manner. Implementation of the Information and Education Plan, in accordance with grant requirements, continued to provide information to the residents of the Chippewa Valley. We have reached tremendous goals and results with the efforts of all the partners in the Forum.

### **Achievements of the Chippewa Valley Storm Water Forum**

Some of the **Education and Outreach** efforts completed with this grant have been the development of the "*Rains to Rivers, Wise Choices for Cleaner Waters*" slogan and logo for the CVSWF. Also completed in 2011 were outreach to educate area community members about the impacts of storm water to our water resources. These items include; Website, Educational Videos, Public Service Announcements & Press Releases, High School Curriculum on Stormwater & the Lower Chippewa Basin, Outfall Inspection & Illicit Discharge Detection Training Materials, Stormwater Regulatory Information for Municipal Officials & Staff and Construction Site Erosion Control for Small Sites: Lessons Learned Animated Power Point Presentation.

The *Rains to Rivers Website* continues to be a great educational tool which allows people to access a wide variety of information to help educate themselves about the importance of controlling erosion and stormwater runoff and what they can do as individuals to protect water resources. The CVSWF continues to work on workshops targeting area educators, realtors and other audiences that deal with stormwater or development in the Chippewa Valley area. The Forum continues to use local events such as Earth Day, Sustainable Dunn and the Northern Wisconsin State Fair to help educate the public on the importance of stormwater management.

In 2011, Eau Claire County and Chippewa County along with the members listed below, agreed to continue the education and outreach requirements of their WPDES permit by developing an agreement to pool their resources to develop and deliver a consistent educational message throughout the Chippewa Basin. The value of working together has proven to be a tremendous advantage and will continue for the next 4 years under this new agreement.

<http://basineducation.uwex.edu/lowerchip/rain2rivers/about.html>



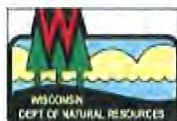
#### **FORUM MEMBERS**



Plus:

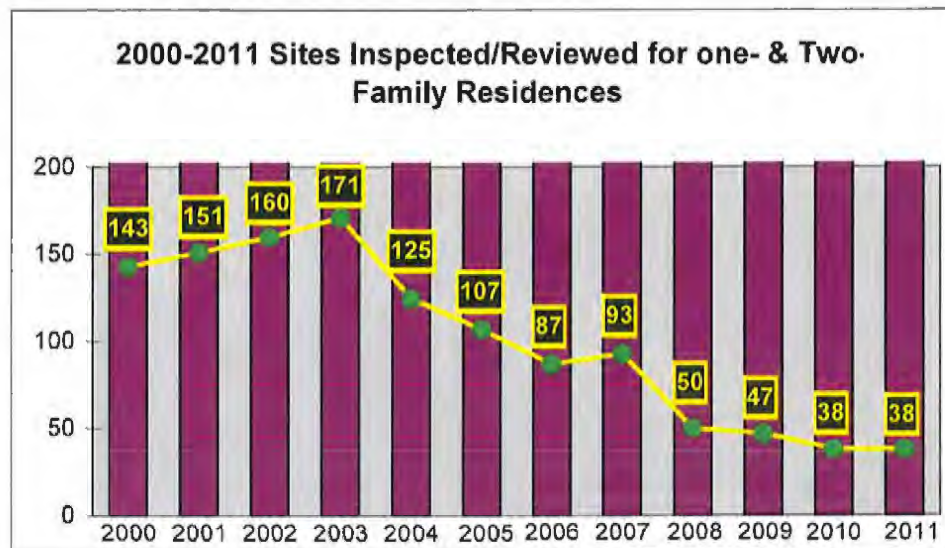
- Village of Lake Hallie • Town of Union • Town of Washington •
- Town of Seymour • Town of Eagle Point • Town of Lafayette •

#### **PARTNERS:**





## **CONSTRUCTION SITE EROSION CONTROL**



Staff provides on-site inspections within three (3) days for enforcement of erosion control standards on One & Two Family Residences in the County. These are new homes under construction, which are required to control soil erosion on their construction sites.

## **LAKE REHABILITATION**

In 2011, the Lake Eau Claire Association began an update of their Lake Management Plan. The plan outlines a framework of lake stewardship activities that will provide improved motorized and non-motorized recreational opportunities, fish and aquatic life habitats, and water quality and clarity. This lake management plan includes clearly defined goals and objectives that will be the road map to improve the attributes of Lake Eau Claire that are valued by all who enjoy this valuable resource. Staff also assisted the Lake Eau Claire Group with their efforts to create develop a Lake District for Lake Eau Claire.

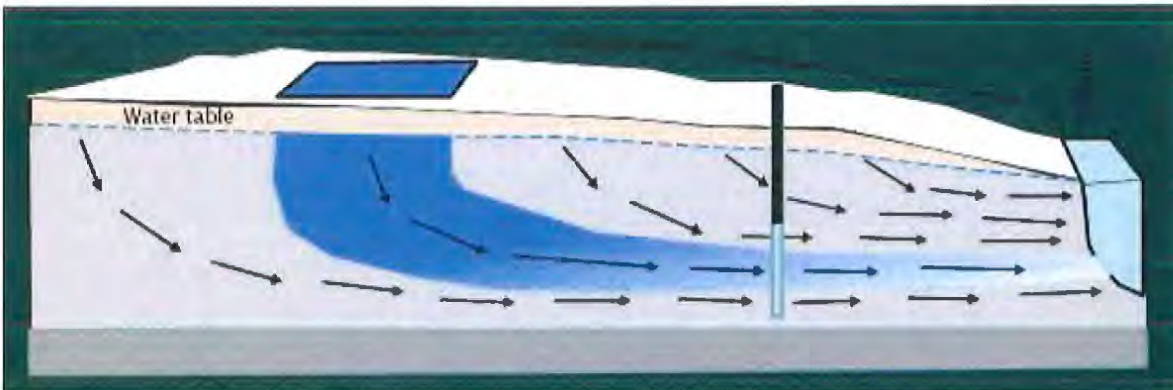
The Lake Altoona Association also continued their effort of reducing sediment delivery into Lake Altoona by performing dredging operations in the headwaters of the lake. Staff continue to work with Lake Altoona to coordinate land and water conservation activities.



## **GROUNDWATER PROTECTION**

Advisory Committee members are:

Pete Marsnik.....	Chair / Citizen Member
James Dunning .....	Vice Chair / County Board Member
Will Fantle .....	County Board Member
Steve Chilson .....	County Board Member
Michael Blodgett .....	DNR Representative
Bob Paddock.....	Health Department Representative
Katherine Grote.....	Community Member and Technical Advisor
Duane Merritt .....	Towns Association



The Groundwater Advisory Committee (GAC) continued efforts to review and revise the Eau Claire County Groundwater Management Plan. The Plan was developed by a group of local resource professionals in 1994. The review and revision of this comprehensive plan will be a timely process as there are many components to update and new goals to be established to be current with the present day needs of Eau Claire County. Students from the UW-Eau Claire Hydrogeology class are assisting the sub-committee with this process.

The Groundwater Advisory Committee will continue monitoring efforts of the Lowes Creek Storm Water Demonstration site and what effects development has had on discharges to Lowes Creek and the surrounding groundwater.

Additional issues surrounding Silica Sand mining were thoroughly researched by the group starting in 2011.



## **CONSERVATION COMPLIANCE AND THE STATE'S AGRICULTURAL PERFORMANCE STANDARDS**

The State of Wisconsin has established agricultural performance standards and manure management prohibitions for all cropland and livestock operations. These are contained within the Wisconsin Administrative Code NR-151.

### **Agricultural performance standards**

- Control cropland erosion to meet tolerable rates.
- Build, modify or abandon manure storage facilities to accepted standards.
- Divert clean runoff away from livestock and manure storage areas located near streams, rivers, lakes or areas susceptible groundwater contamination.
- Apply manure and other fertilizers according to an approved nutrient management plan.

### **Manure management prohibitions**

- No overflow of manure storage facilities.
- No unconfined manure piles near waterbodies.
- No direct runoff from feedlots or stored manure into state waters.
- No trampled streambanks or shorelines from livestock.

Staff have been working with farmers and landowners to understand these standards, and educate them on how the standards apply to their land.

## **FARMLAND PRESERVATION PROGRAM**

Staff worked with, and completed status reviews for, 109 of the farmers enrolled. All were in compliance with their conservation plan.

Compliance reviews with landowners have been expanded to include all of the State's Agricultural Performance Standards within Wisconsin Administrative Code NR-151 listed above. Most landowners are in full compliance with the performance standards, and the remaining have been cooperatively working with staff to meet the standards.



Under the updated Farmland Preservation Program, most participants will receive \$7.50 per acre for land enrolled and meeting the State's Agricultural Performance Standards.



## **WILDLIFE DAMAGE & ABATEMENT PROGRAM**

### **Venison Donations:**

We appreciate the support of Premium Whitetail Deer Management and Eau Claire Energy Co-op for their donations which contribute to the success of this worthwhile program.

Mike's Star Market of Eau Claire processed 24 deer and Augusta Meat in Augusta processed 10 deer for a total of 844 lbs. of meat. Thanks to all hunters who contributed, as close to 1/2 ton of venison was provided to the Feed Our People and Fairchild food pantries.

- Staff inspected ten sites with fencing provided by the program.
- Staff responded to seven requests for crop damage with four damage claims in the amount of \$14,389.41.
- Four were enrolled in the 2011 Wildlife Damage Program.
- Four shooting permits were issued for deer.
- Two new fences were installed, a three acre site and a 17 acre site.





### **TREE & SHRUB PROGRAM**

**All costs, including overhead are covered by sales.**

Year	Orders Received	Total Trees & Shrubs
2002	297	38,025
2003	233	34,800
2004	230	36,200
2005	267	37,450
2006	237	33,825
2007	222	31,325
2008	160	24,425
2009	271	34,125
2010	215	27,300
2011	201	25,025

**The Eau Claire County Land Conservation Division has sold a total of 886,525 trees since the Tree Program began in 1982. We would like to take this opportunity to thank all landowners who participate in this program.**



## **LAND STEWARDSHIP PROGRAM**

The Land Conservation Commission established a Land Stewardship Subcommittee to oversee implementation of the County's Land Stewardship program that was established with the help of local volunteers to preserve and protect critical ecosystems and important habitats in Eau Claire County. The subcommittee held monthly meetings throughout 2011 in order to develop outreach materials, review possible land acquisitions, and further formulate implementation policy in relation to the program.

## **EDUCATION PROGRAMS**

- ❖ **Staff participated in local Ag & Environment Day events at Lowes Creek demonstrating the Envirosapes Stormwater Educational model.**
- ❖ **LCD staff held three Rain Barrel Workshops for Eau Claire County residents. A total of 27 rain barrels were made by the workshop participants.**
- ❖ **Performed monthly Conservation Updates on WAXX Radio with Bob Bosold.**
- ❖ **Four workshops were held to assist farmers in developing nutrient management plans.**
- ❖ **LCD, along with FSA, NRCS and UW-Extension, co-hosted a Conservation Practices Tour**
- ❖ **Co-hosted a Manure Spill Response Field Meeting with Mahlon Peterson, Eau Claire County Ag-Agent.**
- ❖ **Co-hosted a Dairy Facilities Tour with UW-Extension**
- ❖ **LCD Conservation Staff provided presentations at area Technician meetings.**
- ❖ **LCD staff participated in the 2011 Earth Day Celebration at Owen Park.**
- ❖ **LCD staff provided presentations at Towns Association meetings on County Ordinances and Silica Sand issues.**

## **Conservation Speaking Contest**

### **Elementary Division**

No Elementary students participated.

### **Junior Division**

9 students participated: 1 from South Middle School, 2 from Augusta Middle School and 6 from Wildlands School. The first place winner in the Junior Division advanced to the Regional competition and placed second in that competition.

### **Senior Division**

There were 2 students, 1 from Eleva-Strum and 1 from Regis High Schools participating in the Senior Division. The first place winner in the Senior Division advanced to the Regional and then the State competition and took second place in the Senior Division.



## **Eau Claire/Chippewa County Land Judging Competition**

Two Schools with a total of 27 participants took part in the 2011 Land Judging Competition held in Chippewa County. Richard Erickson and the Cornell High School were the winners of this 2011 Eau Claire – Chippewa Land Judging competition for the second year in a row.

As part of the competition, students are asked to assess lands for their agricultural production capability based on soil assessments, topography limitations, and other parameters. Past award winners have included Fall Creek High School and Bloomer High School.







## **CONSERVATION AWARD WINNERS**



The 2010 Eau Claire County Conservation Award winners were featured at the annual Breakfast in the Valley that was held in June at the Eau Claire County Expo Center. The following 2011 award winners were presented at the December 2011 meeting of the Eau Claire County Board and will be recognized at the annual Breakfast in the Valley event to be held June 8, 2012.

### **2011 CONSERVATION FARMERS: DAN AND PAMELA BOETTCHER MATT AND REBEKAH FENDRY**

Dan and Pamela Boettcher have been farming for many years and have been leaders in the adoption of conservation practices on their farm outside of Fairchild. Dan appreciated the award and has seen benefits from the conservation work he has installed on his farm and only wishes he would have done it sooner.



Matt and Rebekah Fendry are newer farmers who decided that maintaining conservation practices on their hills was important to long-term soil health on their farm. They were surprised to be recognized for their conservation efforts on their organic dairy operation north of Strum and "have some innovative ideas that will help them achieve their conservation goals in the future",

according to Jacobs.

### **2011 WATER QUALITY LEADERSHIP: MARLO ORTH, FRED POSS AND ROD ZIKA**

Lake Eau Claire efforts were recognized with the Water Quality Leadership Award. Marlo Orth, Fred Poss, and Rod Zika have all donated many hours to help ensure the long-term water quality in Lake Eau Claire through their efforts with both the Lake Association and throughout the development of a Lake Management Plan. Poss, president of the Lake Eau Claire Association, outlined to the Board at their December meeting that there are only 3-5 years remaining to cost-effectively address sedimentation issues on the east side of the lake and that they will continue to work with the community and the County to address these issues.

### **2011 SPECIAL RECOGNITION: Roger "Jody" Hahn**

Special Recognition was awarded to the late Roger "Jody" Hahn for his important work on the Land Conservation Commission. We were happy to recognize his many years of service Land Conservation Commission member and County Board member but more importantly as a land steward.

### SHARED SERVICES

In an effort to be more efficient and cost effective, we are collaborating in these areas:

- A. **Storm Water** – Through a Cooperative Agreement with the Chippewa Valley Storm Water Management Forum, we collaborate on public education. The state requires urban areas to provide public outreach programs directed at storm water education.
- B. **NRCS Engineering Services** – The Land Conservation Division provides engineering assistance for installation of conservation practices that are funded by Federal Cost Share dollars.
- C. **Farmer Education** – The Land Conservation Division works closely with UW-Extension to effectively utilize staff to complete grant-funded objectives.
- D. **Invasive Species** – The Land Conservation Division is working with the Beaver Creek Reserve to address aquatic invasive species issues and are utilizing their expertise and additional staff as part of the cooperative weed management area efforts.
- E. **Lake Management** – The Land Conservation Division has been working with DNR and other local volunteers to develop strategies for proper management of lakes.

### PERFORMANCE EVALUATIONS

Land Conservation surveys clients who participate in the County Cost Share Program, Nutrient Pest Management classes, and Tree Program. Below are the results from the returned surveys.

#### **County Cost-Share Program**

	<u>Yes</u>	<u>No</u>	<u>Very Satisfied</u>	<u>OK</u>
Service Satisfactory	(100%)			
Contractor Satisfactory	(100%)			
Overall Project			(100%)	

#### **Nutrient Pest Management Program**

	<u>Yes</u>	<u>No</u>	<u>Very Satisfied</u>	<u>OK</u>
Service Satisfactory	(100%)			
Classes Satisfactory	(100%)			
Overall Project			(100%)	

#### **Tree Program**

	<u>Very Satisfied</u>	<u>Satisfied</u>
LCD Staff	(79%)	(21%)
Tree Program	(77%)	(23%)



## **Appendix D**

### **Recent DATCP Annual Report**

Question

1 County name

Note: tan is a drop box; white requires either text or a number.

2 On what three issues does your land conservation department spend the most staff and cost-share resources?

Issue #1

Issue #2

Issue #3

Other:

3 How many permits did the county issue in 2011 with the assistance of conservation staff?

Manure storage (including closure permits, if issued)

Total existing manure storage permits?

Livestock facility siting

Stormwater permit

Other (please specify)

Type

4 How many farmers do you need to work with for FPP conservation compliance?

"Farmers" in these next few questions includes farmers, landowners, and farm operators.

Number of farmers in compliance?

Number of farmers with a compliance schedule?

Number of farmers issued a notice of noncompliance?

5 How many farmers in the FPP or EAZ programs did you work with in 2011?

6 In addition to FPP/EAZ participants, how many farmers have you worked with? (compliance, MSO, livestock facility siting, stormwater issues, etc.)

- 7 List the amount of cost-sharing dollars (by source of funds) spent in your county in 2011 for completed projects where the county provided technical or other support.

Local (including county levy, etc.)

State (including DNR TRM, DATCP SWRM)

Federal (including EQIP, CSP, CRP, CREP, WHIP, MRBI, Coastal Mgmt)

Other (Nature Conservancy, DU, TU, NWTF, lake district, etc.)

- 8 Identify the number of completed and certified practices that were installed in 2011 using the funding identified above.

Manure storage

Barnyard runoff control

Nutrient management

Waterway systems

Streambank and shoreline

- 9 Do you have an active agricultural watershed project to protect/improve water quality?

Number of farmers involved?

Number of practices installed?

Number of priority farms in project area?

Number of priority farms under agreement?

"Active agricultural watershed project" means a project to address nonpoint source pollution from farms.

10

Do you have a conservation success story?  
[Required for counties listed; voluntary for  
others]  
Required: ☐

Counties with fewer than 150 FPP  
participants (according to DOR data)  
need to include a conservation success  
story that highlights a county  
conservation success.



## **Appendix E**

### **Stewardship Program Policy**

***EAU CLAIRE COUNTY LAND  
STEWARDSHIP FUND  
POLICY AND PROCEDURES FOR  
PROGRAM ADMINISTRATION***

Eau Claire County Land Conservation Commission (January 2011)

**EAU CLAIRE COUNTY LAND STEWARDSHIP FUND  
POLICY AND PROCEDURES FOR  
PROGRAM ADMINISTRATION**

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**EAU CLAIRE COUNTY LAND STEWARDSHIP FUND**  
**POLICY AND PROCEDURES FOR**  
**PROGRAM ADMINISTRATION**

***INTENT AND PURPOSE***

**1.0 Introduction**

In Wisconsin, counties have been given the authority and responsibility to plan and to administer local land use and resource conservation programs.

In recent years, Eau Claire County has experienced a steady rate of population growth.

As part of this growth, there has been widespread development of residential and commercial properties in unincorporated areas. This growth trend is expected to accelerate in response to expansion of the regional highway network, and ongoing efforts by Eau Claire County to encourage tourism and economic development.

The Congress and State legislature have recently reduced Federal and State allocations which have been applied to implement resource conservation and pollution control programs in the County. It is anticipated that in the future, public agencies will distribute grants to the County, based upon the County's capacity to generate local matching funds.

Eau Claire County has relied heavily on outside funding sources to develop and implement its local land use and resource conservation programs. Given current development trends and associated pressures on land resources, there is an inherent need to maintain and possibly expand the County's resource conservation efforts. This accelerated need comes at a time when traditional revenue sources are being reduced or eliminated.

To address this issue, it is in the County's interest to develop a fiscal strategy and alternative funding source, which will be used by the County to leverage local funds to meet local land use and conservation needs. As a result, the Eau Claire County Board adopted Resolution #09-10/003 on May 19<sup>th</sup>, 2009, which directed the Land Conservation Commission to develop a Land Stewardship Program and corresponding ordinance.

## **1.1 Purpose**

The Eau Claire County Land Stewardship Fund ("Fund") will assist landowners, municipalities, and local units of government, and non-profit organizations to meet land conservation and resource management objectives in Eau Claire County.

This fund may be used to:

1. Purchase or accept donation of land through fee title or other interest in land for future community needs. This may include acquisitions for public parks and open spaces; access corridors to lakes or rivers; recreational trail corridors; County or School Forests; or environmental / recreational land conservation related uses.
2. Purchase conservation easements or accept donations of development rights in order to achieve land use policy objectives, as specified in an approved Town or County land use plan. This may include donations or purchases of easements to preserve prime farmland, woodlots, environmental corridors, shorelands, wetlands, municipal well recharge areas, or planned open space.
3. Purchase or accept donations of land or easements in support of local fish and wildlife habitat development, improvement projects or restoration projects.
4. Undertake other purposes and activities as deemed appropriate.

To expand the utility and efficiency of this concept, the County Land Stewardship Program will be administered to:

1. Encourage tax-exempt community contributions from corporate or other businesses, local conservation organizations, community service organizations, estates, private individuals or foundations.
2. Acquire matching grants available from public agencies or private non-profit foundations.
3. Distribute matching grants to local municipalities, land trusts, and nonprofit organizations that meet grant criteria established by Eau Claire County Land Conservation Commission.

## **ADMINISTRATION**

### **2.0 Administrative Authority and Responsibility**

To administer the Eau Claire County Land Stewardship Program, it is the intent of the Eau Claire County Board to authorize the Land Conservation Commission to exercise statutory authority assigned to the Committee in WI Stats. 92.07

The Land Conservation Commission shall administer, in the name of the County, the Eau Claire County Land Stewardship Fund.

The Land Conservation Commission will establish a Land Stewardship Sub-Committee ("Sub-committee") comprised of Land Conservation Commission member(s) and Parks and Forest Committee member(s) and members of the public. The Stewardship Sub-Committee shall establish priorities, evaluate the needs of the program and solicit contributions to the County Land Stewardship Fund. The Stewardship Sub-Committee shall also evaluate land preservation needs within the County and will provide recommendations back to the Land Conservation Commission.

The Sub-Committee shall meet on an as-needed basis or as directed by the Land Conservation Supervisor.

## **SOURCE AND MANAGEMENT OF FUNDS**

### **3.0 Fiscal Management and Accounting**

The Fund will be established as a non-lapsing segregated special revenue fund, funded through a variety of sources including public grants, private contributions, service or development fees, and other sources of revenue deemed appropriate by the County.

The Fund will be managed by the Land Conservation Commission, working with the County Finance Department. The Fund will be managed and audited following standardized accounting procedures adopted and employed by the Eau Claire County Finance Department.

The Land Conservation Commission will evaluate ongoing project needs and will request an allocation as part of the annual County budget process. The County Board will make appropriations contingent on availability of funds.

### **3.1 Use of Funds and Eligible Expenses**

The Fund may be used for expenses related to the Program as follows:

1. Matching grants for land or easement acquisition as allocated to eligible individuals, municipalities, organizations or other units of government.
2. Costs of land acquisitions incurred through direct purchase by the County, including but not limited to appraisals, surveys, signage and legal fees.
3. Costs of conservation easement acquisitions incurred through direct purchase by the County, or through donation, including but not limited to appraisals, surveys, and legal fees.
4. Limited management maintenance costs associated with property and easement management.

### **3.2 Solicitation of Contributions to Stewardship Fund**

The Sub-Committee will solicit contributions to the Fund from individuals, businesses, corporations, public agencies, non-profit organizations and other sources.

### **3.3 Gifts of Financial Instruments, Capital Assets, or Personal Property**

The Sub-Committee will evaluate all offers of contribution made by individuals, businesses, corporations, local units of government, or non-profit organizations. If an offer is deemed not to be in the best interest of the program, it may be declined.

Any accepted financial gifts, including cash, stock, or other financial instruments, shall be accepted and formally acknowledged. Proceeds from monetary gifts will be deposited directly in the Fund.

Gifts of personal property will be evaluated for acceptance on a case-by-case basis. In circumstances where a capital asset, other than land or a financial instrument, is offered and accepted, the asset will be sold and the proceeds will be placed in the Fund account.



## ***USE OF FUND TO ACCEPT GIFTS OF LAND OR INTEREST IN LAND***

### **4.0 Gifts of Land or Interests in Land**

Offers of land will be evaluated in the interest of acquiring the property outright, obtaining future purchase options on the property, or acquiring other rights or interests in property.

### **4.1 Procedures for Evaluating Land Donation Offers**

When approached with a proposed gift of land, the Sub-Committee will consult with the County's Corporation Counsel and evaluate the proposal. If the proposal is deemed acceptable, the Sub-Committee will implement the following procedure:

1. Prepare a draft letter of intent to be considered and executed by the contributor. The letter of intent will be nonbinding and will document the contributor's interest in negotiating an agreement of land transfer.
2. Conduct or commission a general title search to verify ownership or obtain a commitment to provide title insurance.
3. Conduct or commission an environmental site assessment to document the history of land use and the potential risk of environmental contamination.
4. Estimate the value or commission an appraisal of the property. If the parties agree that an appraisal is needed to determine the value, the County may incur the initial expense of the appraisal from funds provided by the Fund, with the condition that the landowner will repay the cost of the appraisal to the County if the transfer of land is not completed. In the event the landowner chooses to incur the appraisal expense, and the transfer is completed, reimbursement for the appraisal may be provided to the landowner through the Stewardship Fund.
5. Evaluate and negotiate the terms of the offer. Take action to accept the offer, accept the offer with conditions, or decline the offer.
6. Prepare a formal letter of response. The letter of response will inform the donor of the Land Conservation Commission's extent of interest and basis of decision.

#### **4.2 Criteria for Evaluating Offers of Land**

In circumstances where the Land Conservation Commission is approached with a donation of land, the Sub-Committee will evaluate and recommend to the Land Conservation Commission to accept or deny the offer after considering the following criteria:

1. Conditions placed on the donation by the individual or group making the donation.
2. Consistency with local land use goals, as defined in an approved local land use plan.
3. Consistency with local environmental and land use objectives, as defined in a countywide land use or environment plan.
4. Assessed or appraised fair market value.
5. Extent and condition of improvements.
6. Resource condition, potential liabilities and or environmental value.
7. The capacity of the Land Conservation Commission to conduct ongoing management responsibilities or to transfer such responsibilities to a registered land trust, government agency, municipality, or private party.
8. Commitment by the County Parks and Forest Committee and County Board to designate and manage the property as a component of the County Parks and Forest Department.
9. Options for resale with agreement to assign proceeds toward other property acquisition or management of other stewardship properties.

#### **4.3 Offers of Conservation Easement or Interests in Property**

In circumstances where rights in a property are offered, the Sub-Committee will evaluate the easement or interest in the property and recommend to the Land Conservation Commission to accept or deny the easement acquisition, and may exercise its authority to negotiate and execute conservation easements on behalf of the County.

#### **4.4 Procedures for Evaluating Offers of Conservation Easement**

When approached with an offer of a conservation easement, the Sub-Committee will evaluate the offer and recommend to the Land Conservation Commission to accept or deny the offer. The Land Conservation Commission will follow the same procedures as those specified for an outright land donation or fee title purchase.

#### **4.5 Management Responsibility for Conservation Easements**

In circumstances where the County obtains a conservation easement through the Land Stewardship Program, the County may:

1. Assume management responsibility of the conservation easement.
2. Actively seek a land trust, public agency or other qualified organization to jointly enter the easement agreement in the interest of sharing management responsibility.
3. Systematically monitor compliance with provisions of the easement.
4. Assure compliance through an escalating sequence of enforcement actions.

#### **4.6 Criteria for Fee Title Acquisition**

In circumstances where a property is offered for sale and funds are requested through the County Stewardship Fund, the Sub-Committee will evaluate the offer and recommend to the Land Conservation Commission to accept or deny the fee title acquisition after considering the following criteria:

1. The parcel's proximity to designated "acquisition area" as defined and mapped in a public land use, resource management, or recreational plan (i.e. County Forest Comprehensive Land Use 15 Year Plan, public recreational plan, or Town open space plan).
2. The approximate value of the property in relation to the sale price.
3. The availability of outside funds secured for the acquisition from other sources.
4. Where applicable, the criteria in section 4.2, Criteria for Evaluating Offers of Land shall apply.

## ***USE OF FUND BY COUNTY AS LOCAL MATCH TO ACQUIRE OUTSIDE GRANTS***

### **5.0 Authority for County to Use Fund to Secure Outside Grants**

The Land Conservation Commission shall have the authority to apply the funds from the County Stewardship Fund as a local match for State and Federal grants or to other organizations that may be available to acquire land or conservation easements.

### **5.1 Use of Funds for Outside Appraisals**

In the circumstance where the Land Conservation Commission solicits grant funding from an outside source and the contributor requires an independent appraisal as a condition of property acquisition, the fund may be used for the front-end costs of the appraisal.

In circumstances where acquisition funding is secured and the property is acquired, the Land Conservation Commission will seek reimbursement for the appraisal, if available from the outside source.

## ***USE OF FUND BY COUNTY TO DISTRIBUTE LOCAL MATCHING GRANTS***

### **6.0 Local County Stewardship Grant Awards**

The Land Conservation Commission may reserve and apply a portion of the Fund to establish and administer a County Land Stewardship Fund matching grant program.

### **6.1 Public Notice and Solicitation of Projects**

The Land Conservation Commission shall, on an annual basis, establish objectives and set priorities for funding allocations. These annual objectives will be considered in addition to general standing criteria used to evaluate and fund project proposals.

The Land Conservation Commission shall actively solicit project proposals through an annual Stewardship Fund grant process.

The Land Conservation Commission shall develop minimum content requirements and a standardized format to solicit grant proposals.



## **6.2 Time Cycle for Evaluating and Selecting Projects**

The Land Conservation Commission shall publish a Class II Notice before April 1 of each calendar year to inform the public of grant opportunities and to solicit project land proposals.

Application's for County Stewardship project funds will be compiled and systematically evaluated before October 1 of each calendar year.

## **6.3 Criteria for Evaluating and Selecting Projects**

All project requests submitted through the Stewardship grant program will be evaluated based upon criteria listed in sections 4.2 through 4.6 where appropriate, as well as the following criteria:

1. Annual grant criteria formally adopted by the Committee.
2. Commitment by grant applicant to carry out perpetual management responsibilities.
3. Cost efficiency of the grant request recognizing:
  - a The proportion of funding provided by outside groups.
  - b The total cost per acre as determined in a land appraisal conducted by a State licensed certified appraiser or fair market value.
4. Total cost of project in relation to funds available.

## **6.4 Matching Grant Requirements and Eligible Expenses**

To be eligible for project funds, the applicant must provide at least a 50% match. Expenses that may be counted toward the 50% match are as follows:

1. Property appraisals.
2. Survey costs.
3. Recording fees.
4. Donations toward property management.
5. Other expenses as included in the annual grant criteria formally adopted by the Land Conservation Commission.

## **6.5 Use of Other Public Grant Sources**

In circumstances where other public grant sources are applied in a project proposal, State and Federal grant funds will not be recognized toward the applicant(s) match.

## **6.6 Project Limitations**

To be eligible for funding, projects must be located in an unincorporated area of Eau Claire County. No project shall receive more than \$100,000 from the County Stewardship Fund without County Board approval. Individual dispersal of funds shall follow Eau Claire County's Finance Department policies for payments.

## **6.7 Excluded Organizations**

The following entities will not be considered eligible for matching funds under the Stewardship Grant Program:

- State or Federal agencies.
- Organizations not covered under Internal Revenue Code Section 501(c)(3).
- Religious organizations.
- Any organization which discriminates on any basis.

## **6.8 Project Tracking, Audits, Compliance, and Enforcement**

The Land Conservation Commission shall require that a land use agreement be developed as a condition of any grant allocation. The land use agreement will clearly specify land use and development restrictions which will be applied in the interest of land conservation.

To verify compliance with terms of the agreement, the Land Conservation Commission shall conduct an annual project review before October 1 of each year for each project funded under the program. Results of all annual project reviews will be documented in an annual project compliance report.

The Land Conservation Commission will maintain the authority to require that the land use agreement be recorded with the property deed to limit future use and development of the property.

The Land Conservation Commission shall maintain the authority to review and inspect the financial records and reports of any grant recipient through a formal financial audit.

If, as a result of the annual project review or financial audit, the Land Conservation Commission determines that the land is not being managed in accordance with the land use agreement, the Commission shall take graduated measures to seek compliance.

In circumstances where graduated measures are not adopted or compliance cannot be reached, the Land Conservation Commission shall enforce provisions of the agreement through citation authority, court action, or other mechanisms.

## ***PROGRAM ACCOUNTABILITY***

### **7.0 Program Evaluation, Reporting, and Accountability**

The Land Conservation Commission shall evaluate the County Stewardship Program on an annual basis. The program evaluation shall assess the success of the program based upon the following criteria:

1. Level of program participation as measured by the number of donators and amount of donations.
2. Level of program participation as measured by the number of grant applicants.
3. The number, size, and location of parcels conserved through the Stewardship Fund.
4. The extent of progress made towards reaching the objectives made by the Land Conservation Commission as established in section 6.1, Public Notice and Solicitation of Projects.

## ***PUBLIC INFORMATION AND OUTREACH***

### **8.0 Information and Education; Responsible Parties**

The Land Conservation Commission shall develop a public information and education component of the County Stewardship Program.

### **8.1 Information and Education Program; Content**

The information and education component shall, at a minimum, inform the public of the program and its objectives, explain opportunities for making contributions to the Stewardship Fund, and the procedure for applying for grants through the

Stewardship Program. The Land Conservation Commission may delegate the Information and Education Program to the Land Stewardship Sub-Committee.



## **Appendix F**

### **Recent Stormwater Information & Education Activities through the Chippewa Valley Stormwater Forum**

Chippewa Valley Storm Water Forum Educational Events and Activities						
Event	Contact	Date	Time	Location	Who Was Involved	Description/Notes
Towns Association Meeting	Mark Grabarczyk	1/28/2010	7:00 p.m.	Eau Claire	Mark Grabarczyk	Gave a presentation to Towns Association on Erosion Control and Stormwater Ordinance
NR 151 Hearings	Forum	1/28/2010		Eau Claire	Forum	Public Discussion and follow up newspaper article on storm water runoff water quality issues
Eau Claire Area Master Gardeners	John Genskow	2/6/2010		Eau Claire	John Genskow	Booth on Storm Water BMP's
DNR Staff Training	Kirsten Cahow-Scholtes	2/24/2010		Eau Claire	Kirsten Cahow-Scholtes, Mark Grabarczyk, John Genskow, Dan Zerr	Presented "Rain To Rivers" DVD, "A Storm On The Horizon" DVD, Rain Barrel information, and question and answer session
DNR Staff Training	Kirsten Cahow-Scholtes	3/3/2010		Eau Claire	Kirsten Cahow-Scholtes, Judy Hayducsko	Presented "Rain To Rivers" DVD, "A Storm On The Horizon" DVD, "Thermal Impacts on Trout Waters In Developed Areas, and question and answer session
Leader Telegram article		3/16/2010				Phosphorus pollution
Chippewa Valley Master Gardeners	David Nashold	4/12/2010		Chippewa Falls	David Nashold	Presentation to the Chippewa Valley Master Gardener Association on step citizens can take to improve the quality of lakes and streams by reducing urban runoff and pollutants. Included Rain to Rivers DVD.
Sustainable Dunn Discussion	Randy Eide	4/17/2010		Menomonie	Randy Eide	Review of activities on the Chippewa Valley Storm Water Forum and presentation of "Rain To Rivers DVD"
Water Quality BMP's	John Genskow	4/20/2010		Eau Claire	John Genskow	Met with Coca Cola Employees to discuss onsite water quality BMP's
Earth Day	Mark Grabarczyk	4/23/2010		Eau Claire	Mark Grabarczyk	Tree Distribution
Earth Day	John Genskow	4/24/2010		Eau Claire	John Genskow, Dan Zerr, Mark Grabarczyk,...	Booth on Storm Water BMP's, Presentation on..., Rain Barrel Sale, Tree Distribution
Earth Day	Randy Eide	4/24/2010		Menomonie	Randy Eide	tree distribution
Earth Day	David Nashold	4/24/2010		Chippewa Falls	David Nashold	tree distribution
Amazing Eau Claire Clean Up	John Genskow	4/24/2010		Eau Claire	John Genskow	Tree plantings, storm water facility clean up
Fox Wolf Watershed Alliance	John Genskow	4/28/2010			John Genskow, Kristy Treichel, Randy Eide, Rob Kreji	Presenation on Chippewa Valley efforts to achieve 40% TSS reduction
Rain Barrel Workshops	Dan Zerr	May-June 2010		Eau Claire	Dan Zerr	UW-Extension and Eau Claire County Land Conservation partnered to instruct people on how to build rain barrels, as well as assisting them at the training to build one to take home.

Northern Wisconsin State Fair	Rob Kreji	7/10/2010		Chippewa Falls	Rob Krecji, John Genskow	Booth on Storm Water BMP's
Delong Rain Gardens	Dan Zerr	7/31/2010		Eau Claire	Dan Zerr, John Genskow	TV 18 report on Delong Rain gardens
Rain To Rivers Video	Dan Zerr	August-December		Statewide	Group	Rain To Rivers DVD shown on Wisconsin Channel of Public TV
Land Conservation Commission Meeting	Mark Grabarczyk	8/23/2010		Altoona	Mark Grabarczyk	Presentation to the Land Conservation Commission on resolution #10-11/046 to extend the Cooperative Agreement for Storm Water Management Public Education and Outreach.
Youth Leadership Ag & Environmental Days	Mike Erickson	9/8/2010		Eau Claire	Mike Erickson	Present stormwater enviroscape model to Youth Leadership students
National Association of Sediment and Erosion Control	Forum	9/9/2010		Rice Lake	Forum	Presentations on various erosion control practices
Sustainability Show Case	Dan Zerr	9/11/2010		Eau Claire	Dan Zerr, City of Eau Claire	Sustainability exhibits and presentations
Sustainability Show Case	Dan Zerr	9/12/2010		Eau Claire	Forum / Mike Erickson	Forum made and donated a Rain Barrel for event
Eau Claire County Board	Mark Grabarczyk	9/21/2010		Eau Claire	Mark Grabarczyk	Presentation to the Eau Claire County Board on resolution #10-11/046 to extend the Cooperative Agreement for Storm Water Management Public Education and Outreach.
BMP Installation	Dave Nashold	9/28/2010		Chippewa Falls	Dave Nashold	Installation of rain garden at Leinenkugel's Lodge
Storm Water BMP's	Forum	9/29/2010		Eau Claire	Forum	Webinar on various vegetated erosion control practices
WICCI	Dan Zerr	10/5/2010		Eau Claire	Dan Zerr, Dave Walter, John Genskow	Conference on Planning for Climate Change
Peddles and Paddles	John Genskow	10/7/2010		Eau Claire	John Genskow	Met with UWEC students on project to prepare brochures for self guided bike and river tours, including storm water quality issues and features
Northwest Education Association Convention	Dan Zerr	10/15/2010	All Day	Eau Claire Memorial High School	Dan Zerr, John Genskow	Set up a booth featuring storm water trifold, and also samples of the storm water curriculum to show to teachers.
Sustainable Dunn Candidate Forum	Randy Eide	10/21/2010		Menomonie	Randy Eide	Sustainable Dunn sponsored a candidate forum.
River Falls BMP Tours	Kristy Treichel	10/21/2010		City of River Falls	Kristy Treichel, Reid Wronski	Tour of storm water best management practices for Leadership River Falls
Wisconsin Assoc Environmental Educators	Dan Zerr	10/28/2010	11:00:00 AM - Noon	Upham Woods Nature Center	Dan Zerr, John Genskow, Anne Hirekatur	Presentation to WAEE conference about the Forum and community collaboration

Wisconsin Assoc Environmental Educators	Dan Zerr	10/29/2010	9:45 AM - 11:45 AM	Upham Woods Nature Center	Ann Hirekatur, Dan Zerr	Presentation to WAEE conference about storm water curriculum materials
Rain To Rivers Video	Kristy Treichel	November		River Falls	Kristy Treichel	Rain To Rivers DVD shown on Public Access TV in River Falls
Galloway Creek Public Meeting	Randy Eide	11/6/2010		Menomonie	Randy Eide	UW Stout had a neighborhood/public meeting on the effects of runoff on Galloway Creek
Eau Claire City Council Presentation	John Genskow	11/9/2010		Eau Claire	John Genskow	Presentation to City Council on status of Cooperative Agreement for Storm Water Management Public Education and Outreach and an overview of CVSWF materials and activities
Minnesota Naturalist Association Conference	Kristy Treichel	11/13/2010		City of River Falls	Kristy Treichel	Presentation about City's rain garden/pervious paver/pervious concrete BMPs for Minnesota Naturalist Ass. Conference
Menomin/Tainter Lake Assoc Mtg	Randy Eide	11/17/2010		Menomonie	Randy Eide	UW Stout and Menomin/Tainter Lake Association presented the film <i>Troubled Waters</i>
Girl Scout Presentation	Dan Zerr	11/29/2010	6:00 PM	Menomonie	Dan Zerr	Gave a presentation (sponsored by Girl Scout Leader) at Menomonie Public Library about Red Cedar Issues. Also showed Rain To Rivers DVD.
Menomonie Street Dept Training	Randy Eide	12/2/2010		Menomonie	Randy Eide	Outfall Inspection and Illicit Discharge Training conducted at Menomonie Street Department
Rain To Rivers Video Distribution	Randy Eide	12/6/2010		Menomonie	Randy Eide	Rain To Rivers DVD distributed to elementary and middle school libraries
Eau Claire Waterways and Parks Committee meeting	John Genskow	12/20/2010		Eau Claire	John Genskow	Rain garden presentation to committee
Storm Water Non Point Source Pollution Curriculum	Forum	December		Various	Forum	Distribution of Curriculum materials to Schools for use in Science classes
WAXX Radio Announcements	Kirsten Cahow-Scholtes, Mark Grabarczyk	Monthly		Eau Claire	Kirsten Cahow-Scholtes, Mark Grabarczyk	Monthly radio announcement about seasonal storm water issues
Inlet Stenciling	Randy Eide	Oct/Nov 2010		Menomonie	Randy Eide	Wal-Mart Distribution Employees and UW Stout Students stenciled storm water inlets
Reception Area Materials	Forum	year round		reception areas	Forum	materials, brochures, publications regarding the storm water system, BMP's, and personal practices to improve runoff water quality.



Chippewa Valley Storm Water Forum Educational Events and Activities						
Event	Contact	Date	Time	Location	Who Was Involved	Description/Notes
Leadership Eau Claire	Mark Grabarczyk	1/5/2011		Eau Claire	Eau Claire Co. Health Department staff	Used storm water Enviroscape model for demonstration to Youth Leadership Eau Claire group
Storm Water Curriculum Materials	Dan Zerr	1/12/2011		Various	Dan Zerr	Delivered storm water high school curriculum materials to Menomonie and Colfax high schools.
Storm Water Curriculum Materials	Dan Zerr	1/13/2011		Augusta	Dan Zerr	Delivered storm water high school curriculum materials to Augusta high school.
Storm Water Curriculum Materials	Dan Zerr	1/19/2011		Rice Lake	Dan Zerr	Delivered storm water high school curriculum materials to Rice Lake high school.
Sustainable Dunn "Year of Water" kick off event	Dan Zerr	1/30/2011	1-4 PM	Menomonie	Dan Zerr, Randy Eide	General water quality education for the Red Cedar Watershed, presentation by Dan Zerr.
Sustainable Dunn "Year of Water" kick off event	Randy Eide	1/30/2011	1-4 PM	Menomonie	Dan Zerr, Randy Eide	Storm water booth set up and manned by Randy Eide.
Storm Water Curriculum Materials	Dan Zerr	2/2/2011		Various	Dan Zerr	Delivered storm water high school curriculum materials to Spring Valley, Boyceville and Baldwin high schools.
Eau Claire Area Master Gardeners	John Genskow	2/5/2011		Eau Claire	John Genskow	Provided Handouts and Brocures on Storm Water BMP's and yard care practices
Storm Water BMP's	John Genskow	2/8/2011		Eau Claire	John Genskow	Presentation to Public Works Staff regarding various street sweepers and efficiencies
Reception Area Materials	Forum	year round		reception areas	Forum	materials, brochures, publications regarding the storm water system, BMP's, and personal practices to improve runoff water quality.
Sustainable Dunn "Year of Water" event	Randy Eide	2/17/2011	7-9 PM	Menomonie	Randy Eide	Randy discussed storm water basics, permits, etc., and showed "Rain To Rivers" DVD.
Radio Ads	Dan Zerr	March-May 2011		Eau Claire listening area	Dan Zerr, Mark Grabarczyk	Maverick Media and Clear Channel Radio began broadcasting nine different storm water radio ads based on the "Things You Can Do" from the Rain To Rivers brochure.
Television Ads	Dan Zerr	March-May 2011		Eau Claire TV market	Dan Zerr, Mark Grabarczyk	WQOW and WEAU begin broadcasting two TV ads about storm water; Rubber Duckies and Fishbowl.

Dunn Co. Land & Water Resource Management Plan revision meeting	Randy Eide	3/10/2011	9:00 AM	Menomonie	Randy Eide	Randy discussed storm water basics, permits, etc., with a group of stakeholders who were giving input to Dunn Co regarding the update of the Land & Water Resource Management Plan for the county.
Storm Water Curriculum Materials	Dan Zerr	3/16/2011		Altoona	Dan Zerr	Delivered storm water high school curriculum materials to Altoona High School.
Rain Barrel Workshops	Mike Erickson	3/17/2011		Cadott	Mike Erickson & David Nashold	Presentation on the benefits of rain barrels and stormwater management in general. Followed by construction of rain barrels by participants.
Sustainable Dunn "Year of Water" event	Dan Zerr	4/5/2011	7:00 PM	Menomonie	Dan Zerr, Randy Eide	Scott McGovern of UW-Stout presented on lawn care/buffers/etc. Dan and Randy were there for Q&A in an informal panel structure.
Leadership Academy of Polk and St. Croix Counties meeting	Kristy Treichel	4/12/2011		River Falls	Kristy Treichel	Kristy Treichel gave a talk about storm water to the Leadership Academy members (about 25 in attendance) of Polk and St. Croix Counties.
Fish Shocking by River Falls High School Students	Tamara Wittmer	4/19/2011		Kinnickinnic River	Kyle Kulow	Hands on experience learning about Fish Species and Population as it relates to the Kinni River and Water Quality.
Rain Garden planting	Dan Zerr	4/25/2011		Menomonie	Dan Zerr, Randy Eide	Dan Zerr and Randy Eide advised Nicole Verdon of the Girl Scouts on planting a rain garden. The planting took place on 4/25 in Wakonda Park in Menomonie.
Prescott Earth Day event	Kristy Treichel	5/1/2011		Prescott	Kristy Treichel	Storm water booth set up by Kristy Treichel.
St. Croix Earth Day event	Aleisha Miller/Tamara Wittmer	5/1/2011		Camp St. Croix, Hudson	St. Croix Co LWCD	Enviroscape (Watershed) Model utilized for education about watersheds and runoff.
Tour of storm water BMPs	Kristy Treichel	5/2/2011		River Falls	Kristy Treichel	Kristy Treichel gave a tour of storm water BMPs in River Falls to a UW-River Falls soils class (about 30 students).
Rain Barrel Workshop	Mike Erickson	5/5/2011	6:30 PM	Eau Claire	Mike Erickson & Dan Zerr	Presentation on the benefits of rain barrels and stormwater management in general. Followed by construction of rain barrels by participants.
Glenwood City Stream Clean-up	Tamara Wittmer	5/11/2011		Glenwood City	St. Croix Co LWCD	Garbage pick-up throughout Glenwood City area.
Story, "Who Polluted the Kinnickinnic River" for River Falls first grade students	Tamara Wittmer	5/12/2011		Greenfield Elementary, River Falls	St. Croix Co LWCD	Story about water pollution over time and that everyone plays a part in water pollution

Streamflow Measurements by River Falls High School Students	Tamara Wittmer	5/12/2011		Kinnickinnic River	Kyle Kulow	Hands on experience measuring and learning about stream flow of the Kinnickinnic River
Rain Barrel Workshop	Mike Erickson	5/19/2011	6:30 PM	Eau Claire	Mike Erickson & Dan Zerr	Presentation on the benefits of rain barrels and stormwater management in general. Followed by construction of rain barrels by participants.
Voices on The River	Tamara Wittmer	5/23/2011		Martel's Landing, Apple River	St. Croix Co LWCD	Presentation to local artists' (what we need is here) group about water quality of St. Croix County and finding ways to inspire change
Macroinvertebrate Sampling by River Falls High School Students	Tamara Wittmer	5/25/2011		Kinnickinnic River	Kyle Kulow	Hands on experience collecting and learning about macro invertebrates as indicators of water quality of the Kinnickinnic River
Who Polluted Tiffany Creek? - Story for first graders	Tamara Wittmer	5/26/2011		Glenwood City Elementary School	St. Croix Co LWCD	Story about water pollution over time and that everyone plays a part in water pollution
Rain Barrel Painting Workshop	Tamara Wittmer	6/4/2011		Hudson	St. Croix Co LWCD	Rain Barrels were painted by local artists and donated to the Sustain Hudson group, where they were raffled off and proceeds went to fund a local rain garden demonstration. (201-raffle tickets were sold)!
Water Quality Sampling by River Falls High School Students	Tamara Wittmer	6/5/2011		Kinnickinnic River	Kyle Kulow	Hands on experience collecting samples and learning about water quality of the Kinnickinnic River
Half Moon Lake Alum Treatment Press Conference	John Genskow	6/15/2011	9:00 AM	Eau Claire	John Genskow	After many years of controlling storm water runoff into Half Moon Lake, an alum treatment was applied to remove phosphorus from the water column in the lake and trap it in the bottom sediments. A press conference and tour of the lake was held as the alum was being applied.
"Heart of the Beast" puppet theatre	Tamara Wittmer	6/16/2011		Hudson	St. Croix Co LWCD	Show Title, Are you Thirsty? Great story about the uses of water and how we are all connected. Following the play was a boat launch of nature made boats from the Voices on the River Project.
Artful Rain Garden Exhibit	Tamara Wittmer	6/16-6/19/11		Hudson	St. Croix Co LWCD	Drawing, painting, photography, poetry, mixed media sculpture and interactive displays to inspire, inform and encourage action for a healthy river.

Artful Rain Garden Fair, Cirque du Soil	Tamara Wittmer	6/26/2011		Hudson	St. Croix Co LWCD	Fun hands-on activities, edible aquifers and resources from plant, soil and watershed experts.
Hudson Rain Garden Training	Tamara Wittmer	7/9/2011		Hudson	St. Croix Co LWCD	Curb-cut raingarden at 7th and St. Croix Street, with volunteers from age 7 to 70. Learn the ins and outs of building a community raingarden.
Rain Barrel Workshop	Mike Erickson	7/12/2011	6:30 PM	Eau Claire	Mike Erickson & Dan Zerr	Presentation on the benefits of rain barrels and stormwater management in general. Followed by construction of rain barrels by participants.
Dunn Co. Sustainability Fair	Dan Zerr	7/16/2011	8 AM - 3 PM	Menomonie	Dan Zerr & Randy Eide	Display booth about storm water was set up, and Dan gave a 45 minute presentation about storm water issues.
Earth Partnership for Schools	Tamara Wittmer	7/21/2011		St. Croix Co	St. Croix Co LWCD	Environmental Education and other Resources in St. Croix County. Watersheds, Stormwater and Groundwater were my primary topics covered.
Storm Drain Labeling	Randy Eide	Ongoing		Menomonie	Randy Eide	Attaching "Do Not Dump" medallions to storm drains in the City of Menomonie.
Why Rain Gardens? - Radio Broadcast WIXK, New Richmond	Tamara Wittmer	7/24/2011		St. Croix Co	St. Croix Co LWCD	Radio segment on raingardens and why we want them on the landscape.
Landscaping with Rain Gardens workshop	Tamara Wittmer	7/25/2011		Hudson	St. Croix Co LWCD	2-hour workshop learning about raingardens and how to fit one into your landscape.
Rain Barrel Painting Workshop	Tamara Wittmer	7/25 & 7/27/11		St. Croix Co	St. Croix Co LWCD	Barrels and Painting materials provided at this 2-day workshop. Learn about different painting styles to create your own rain barrel masterpiece.
Donations of Rain Barrels to Phoenix Community Garden	Mike Erickson	7/25/2011		Eau Claire	Eau Claire Co Land Conservation Dept	Eau Claire LCD donated three rain barrels to the Phoenix Community Gardens in Eau Claire.
Composting Introduction: Part of "Keep Nutrients Out of Our Waterways" program	Randy Eide	Ongoing		Menomonie	Randy Eide	Introducing composting to residents. Partnering with Menomonie Community Gardens and are offering 40 Compost Tumblers to residents at a nominal fee.
Storm Water Model Demonstration	Kelly Jacobs	9/7/2011		Lowes Creek County Park	Eau Claire Co Land Conservation Dept	Eau Claire LCD lent the storm water "Enviroscape" model to NRCS staff for use and demonstration at Youth Leadership Eau Claire event.



Chippewa County Conservation Days	Dan Zerr	9/13/2011	9 AM-2PM	Lake Wissota State Park	Dan Zerr, Rob Krejci	Approximately half of the 5th graders in Chippewa County attended, spending approximately 25 minutes at various stations learning elements of conservation, including storm water runoff and ground water issues.
Chippewa County Conservation Days	Dan Zerr	9/22/2011	9 AM-2PM	Brunet Island State Park	Dan Zerr, Rob Krejci	Approximately half of the 5th graders in Chippewa County attended, spending approximately 25 minutes at various stations learning elements of conservation, including storm water runoff and ground water issues.
Illicit Discharge Training	David Nashold	Oct		Town of Lafayette	David Nashold	Training event for town and village officials to prepare for illicit discharge inspections.
Ordinance Development for Construction Site Erosion Control, Post-Construction Storm Water Management, and Illicit Discharge	David Nashold	4 days in Oct-Dec		Chippewa Falls	David Nashold, Dan Masterpole	Ordinance development included significant effort to educate elected officials of existing storm water rules, and opportunities for improvement.
Cub Scout Meeting	Dan Zerr	10/2/2011	1-3 PM	Half Moon Lake	Dan Zerr	Met with an Eau Claire Cub Scout troop to talk about various naturalist/conservation topics including water quality and storm water runoff.
City of Eau Claire Waterways Plan Advisory Committee Meeting	John Genskow	10/27/2011	7:00	Eau Claire	John Genskow	Presented an overview of the Chippewa Valley Storm Water Forum and Rain to Rivers. Showed the short version of the Rain to Rivers DVD.
Eau Claire Memorial High School Field Trip	John Genskow	11/8/2011	all day	Eau Claire	John Genskow	Met Memorial High School Students at various locations to discuss BMP's and personal habits to improve runoff water quality.
Eau Claire Memorial High School Guest Lecture	Ronnie Williams	11/10/2011		Eau Claire	Ronnie Williams	Did a guest lecture at Memorial High on the topic of storm water
Eau Claire Noon Rotary Meeting	John Genskow	11/28/2011	Noon	Eau Claire	John Genskow	Presented an overview of the Chippewa Valley Storm Water Forum and Rain to Rivers. Showed the short version of the Rain to Rivers DVD.

## **Appendix G**

### **LWRM Plan Survey Results**



**EAU CLAIRE COUNTY**  
**Land Conservation Commission**  
227 First Street West, Altoona, WI 54720  
Phone: (715) 839-6226 ♦ Fax: (715) 839-6277  
[www.co.eau-claire.wi.us](http://www.co.eau-claire.wi.us)

June 7, 2011

Dear Cooperator:

The Eau Claire County Land Conservation Division is in the process of revising our current Land & Water Resource Management (LWRM) Plan. You are receiving this letter because you either participated in the previous update or are now being identified as someone who may be able to assist in this process. We are asking for your help by answering the few short questions on the attachment and returning them to our office by July 22, 2011 for incorporation into the updated plan.

The approved 2007 LWRM plan is available for your reference on the Eau Claire County website ([www.co.eau-claire.wi.us](http://www.co.eau-claire.wi.us)). You can access it by clicking on "Land & Water Resource Management Plan" under the "What's Happening" box on the main page. This will bring you to the LCD website where you can scroll down to find both the current "Land and Water Resource Management Plan" as well as a copy of the survey. Please feel free to direct any other interested groups or individuals to this website for completion of the survey as well.

We intend to hold a couple informal gatherings to review the plan and incorporate recommendations. Please contact me if you would like to participate further in this LWRM plan update process. Thank you for your continued assistance in conserving Eau Claire County's Soil and Water Resources! I look forward to talking with you.

Sincerely,

Kelly Jacobs  
Land Conservation Supervisor

2011 Eau Claire County Land Conservation Cooperator Survey  
Land and Water Resource Management (LWRM) Plan

Please return to [kelly.jacobs@co.eau-claire.wi.us](mailto:kelly.jacobs@co.eau-claire.wi.us) by July 22, 2011 if possible.

Name: \_\_\_\_\_

Organization: \_\_\_\_\_

Email Address: \_\_\_\_\_  
(or mailing address)

Please select one of the following:

\_\_\_\_\_ YES I would like to be informed of any meetings associated with this LWRM update and will try to attend when possible.

\_\_\_\_\_ Sorry, I will not be able to participate in meetings associated with this LWRM update.

Given your expertise, are there any particular areas of Eau Claire County (specific watershed, township, etc.) where you think we should be focusing?

What are your primary resource concern(s)? For example: streambanks, wetlands and lakes, building site erosion, native/unique habitats, cropland and gully erosion, land preservation, etc.. Please elaborate.

Areas where we can collaborate (program, grants, information and education, etc.). Please elaborate.

Anything else you would like to comment on? Please attach additional pages if needed.



SUMMARY OF RESPONSES  
LWRM plan Survey – June/July 2011

**Items in bold came up in several surveys**

Goals and Objectives

- **Protect and restore water quality**, reduce phosphorus loading (internal and external)
  - o **Bring farms into compliance with NR151 nonpoint runoff standards**
    - Look at tillage procedures (specifically organic practices)
    - Encourage strip cropping
    - Encourage use of grassed waterways (water runs)
    - Encourage no-till only in areas where that practice makes sense
    - Buffers on streams
  - o **Bring farms into compliance with ATCP50 nutrient management regulations**
    - continue to provide “update sessions”
  - o Educate landowners on stormwater management
  - o Well Abandonment for the protection of Groundwater
  - o Educate riparian landowners on maintenance of septic systems (POWTs)
  - o Lake and River recreational use and safety including reduction of blue-green algae blooms
- **Reduce overall erosion and sedimentation**
  - o Occurring in lakes
  - o Occurring in watersheds
  - o Educate people on the impacts of both
  - o Wetlands and streambanks
  - o Cost-effective practices that deliver big results
- **Prevent the expansion and new infestations of invasive species**
  - o Priority to Leafy spurge near Coon Fork
  - o Areas around Eau Claire with Buckthorn and Garlic Mustard
  - o Educate Highway and Utility maintenance crews
- **Protection/Preservation of critical/sensitive areas**
  - o Protect and manage barrens/ prairie habitats and native plant communities
  - o Educate private landowners on options and programs available to them
  - o Maintain continuity of protected corridor on Eau Claire River
  - o Preservation of county forest for future generations
  - o Wetland Preservation
  - o Prioritize work associated with the Eau Claire County Land Stewardship Program
- **Continue to work with Working Lands Initiative efforts**
  - o Including Farmland Preservation efforts
  - o Look at current zoning rules to reduce amount of farmland taken out of production due to those requirements
- Groundwater
  - o Pharmaceutical recycling and other recycling programs

- Promote and build Groundwater Advisory Committee
- **Encourage Healthy Ecosystems**
  - Protect and improve the aquatic life of Lakes (self sustaining fishery, diverse aquatic plant community)
    - Address items in all Lake Management Plans
  - Private lands management to encourage healthy plant communities
  - Protect and improve aquatic and shoreline habitat to promote a healthy and diverse community of aquatic life
    - coarse woody habitat (CWH) in lakes – restore habitats and educate riparian landowners
    - Define critical habitats
  - Demonstration projects and Education
- **Pursue grants and other outside funding sources**

#### Geographic Focus Areas

- **Eau Claire River Watershed (including Lake Eau Claire and Eau Claire River and Lake Altoona)**
- Lower Chippewa River
- Natural Areas and Co. Forest around Coon Fork and Coon Fork Lake
- Both farmland AND forestland
- Impaired Waters
- SW portion of County in the Driftless Area
- Upland/Headland areas in the watersheds
- Otter Creek Watershed
- Black Creek Watershed
- Lowes Creek Watershed
- Hay Creek Watershed
- 7 mile Creek Watershed
- 9 mile Creek Watershed

#### Partnering/Collaboration efforts

- Lake Districts/ Lake Associations
- Neighboring County Land Conservation Depts.
- River Alliance, LECA, and other NGO's
- West WI Land Trust and other land trusts
- WI DNR
- Beaver Creek Reserve
- National Wild Turkey Foundation (NWTF)
- UW-Extension
- USDA (NRCS & FSA) programs

## **Appendix H**

### **State Performance Standards and Prohibitions**

## Chapter NR 151

### RUNOFF MANAGEMENT

#### Subchapter I — General Provisions

- NR 151.001 Purpose.  
 NR 151.002 Definitions.  
 NR 151.003 BMP Location.  
 NR 151.004 State targeted performance standards.  
 NR 151.005 Performance standard for total maximum daily loads.  
 NR 151.006 Applicability of maximum extent practicable.

#### Subchapter II — Agricultural Performance Standards and Prohibitions

- NR 151.01 Purpose.  
 NR 151.015 Definitions.  
 NR 151.02 Sheet, rill and wind erosion performance standard.  
 NR 151.03 Tillage setback performance standard.  
 NR 151.04 Phosphorus index performance standard.  
 NR 151.05 Manure storage facilities performance standards.  
 NR 151.055 Process wastewater handling performance standard.  
 NR 151.06 Clean water diversion performance standard.  
 NR 151.07 Nutrient management.  
 NR 151.08 Manure management prohibitions.  
 NR 151.09 Implementation and enforcement procedures for cropland performance standards.  
 NR 151.095 Implementation and enforcement procedures for livestock performance standards and prohibitions.  
 NR 151.096 Local livestock operation ordinances and regulations.  
 NR 151.097 Variances.

#### Subchapter III — Non-Agricultural Performance Standards

- NR 151.10 Purpose.  
 NR 151.105 Construction site performance standard for non-permitted sites.  
 NR 151.11 Construction site performance standard for sites of one acre or more.  
 NR 151.12 Post-construction performance standard for new development and redevelopment.  
 NR 151.121 Post-construction performance standards.  
 NR 151.122 Total suspended solids performance standard.  
 NR 151.123 Peak discharge performance standard.

- NR 151.124 Infiltration performance standard.  
 NR 151.125 Protective areas performance standard.  
 NR 151.126 Fueling and vehicle maintenance areas performance standard.  
 NR 151.127 Location.  
 NR 151.128 Timing.  
 NR 151.13 Developed urban area performance standard for municipalities.  
 NR 151.14 Turf and garden nutrient management performance standard.  
 NR 151.15 Implementation and enforcement.

#### Subchapter IV — Transportation Facility Performance Standards

- NR 151.20 Purpose and applicability.  
 NR 151.21 Definitions.  
 NR 151.22 Responsible party.  
 NR 151.225 Construction site performance standard for non-permitted sites and routine maintenance.  
 NR 151.23 Construction site performance standard for sites of one acre or more.  
 NR 151.24 Post-construction performance standard.  
 NR 151.241 Post-construction performance standards.  
 NR 151.242 Total suspended solids performance standard.  
 NR 151.243 Peak discharge performance standard.  
 NR 151.244 Infiltration performance standard.  
 NR 151.245 Protective areas performance standard.  
 NR 151.246 Fueling and vehicle maintenance areas performance standard.  
 NR 151.247 Location.  
 NR 151.248 Timing.  
 NR 151.249 Swale treatment performance standard.  
 NR 151.25 Developed urban area performance standard for transportation facilities.  
 NR 151.26 Enforcement.

#### Subchapter V — Technical Standards Development Process for Non-Agricultural Performance Standards

- NR 151.30 Purpose.  
 NR 151.31 Technical standards development process.  
 NR 151.32 Dissemination of technical standards.

#### Subchapter I — General Provisions

**NR 151.001 Purpose.** This chapter establishes runoff pollution performance standards for non-agricultural facilities and transportation facilities and performance standards and prohibitions for agricultural facilities and practices designed to achieve water quality standards as required by s. 281.16 (2) and (3), Stats. This chapter also specifies a process for the development and dissemination of department technical standards to implement the non-agricultural performance standards as required by s. 281.16 (2) (b), Stats. If these performance standards and prohibitions do not achieve water quality standards, this chapter specifies how the department may develop targeted performance standards in conformance with s. NR 151.004.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02.

#### NR 151.002 Definitions. In this chapter:

- (1) “Adequate sod, or self-sustaining vegetative cover” means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.  
 (2) “Agricultural facilities and practices” has the meaning given in s. 281.16 (1), Stats.  
 (3) “Average annual rainfall” means a typical calendar year of precipitation as determined by the department for users of models such as SLAMM, P8, or equivalent methodology. The average annual rainfall is chosen from a department publication for the location closest to the municipality.

**Note:** Information on how to access SLAMM and P8 and the average annual rainfall files for five locations in the state, as published periodically by the department, is available at: <http://dnr.wi.gov/runoff/models/index.htm> or by contacting the storm water management program at (608) 267-7694.

(4) “Best management practices” or “BMPs” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

(5) “Combined sewer system” means a system for conveying both sanitary sewage and stormwater runoff.

(6) “Connected imperviousness” means an impervious surface connected to the waters of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.

**Note:** An example of minimally pervious flow path would be roof runoff flowing across a lawn of less than 20 feet, to the driveway, to the street, and finally to the storm sewer. The department has a guidance document to aid in the application of this term at <http://dnr.wi.gov/runoff/stormwater/muni.htm>.

(7) “Construction site” means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A long-range planning document that describes separate construction projects, such as a 20-year transportation improvement plan, is not a common plan of development.

(8) “DATCP” means the department of agriculture, trade and consumer protection.

(9) “Department” means the department of natural resources.

(10) “Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.

(11) “Development” means residential, commercial, industrial or institutional land uses and associated roads.



(11m) “Direct conduits to groundwater” means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

(12) “Effective infiltration area” means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

(13) “Erosion” means the process by which the land’s surface is worn away by the action of wind, water, ice or gravity.

(14) “Exceptional resource waters” means waters listed in s. NR 102.11.

(14g) “Existing development” means development in existence on October 1, 2004, or development for which a notice of intent to apply for a storm water permit in accordance with subch. III of ch. NR 216 was received by the department or the department of commerce on or before October 1, 2004.

(14r) “Filtering layer” means soil that has at least a 3-foot deep layer with at least 20 percent fines; or at least a 5-foot deep layer with at least 10 percent fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.

(15) “Final stabilization” means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least 70% of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.

(16) “Illicit discharge” means any discharge to a municipal separate storm sewer that is not composed entirely of runoff, except discharges authorized by a WPDES permit or any other discharge not requiring a WPDES permit such as water line flushing, landscape irrigation, individual residential car washing, fire fighting and similar discharges.

(16m) “Impaired water” means a waterbody impaired in whole or in part and listed by the department pursuant to 33 USC 1313 (d) (1) (A) and 40 CFR 130.7, for not meeting a water quality standard, including a water quality standard for a specific sub-state or the waterbody’s designated use.

**Note:** The impaired waters list can be viewed on the department website at <http://dnr.wi.gov/org/water/wm/wqs/303d/303d.html>.

(17) “Impervious surface” means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, gravel or paved parking lots, and streets are examples of surfaces that typically are impervious.

(18) “In-fill” means an undeveloped area of land located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur. “In-fill” does not include any undeveloped area that was part of a larger new development for which a notice of intent to apply for a storm water permit in accordance with subch. III of ch. NR 216 was required to be submitted after October 1, 2004, to the department or the department of commerce.

(19) “Infiltration” means the entry and movement of precipitation or runoff into or through soil.

(20) “Infiltration system” means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

(22) “Land disturbing construction activity” means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover,

that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

(23) “Landowner” means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.

(24) “Local governmental unit” has the meaning given in s. 92.15 (1) (b), Stats.

(25) “MEP” or “maximum extent practicable” means the highest level of performance that is achievable but is not equivalent to a performance standard identified in subch. III or IV, as determined in accordance with s. NR 151.006.

(26) “Municipality” has the meaning given in s. 281.01 (6), Stats.

(27) “Navigable waters” and “navigable waterway” has the meaning given in s. 30.01 (4m), Stats.

(28) “New development” means development resulting from the conversion of previously undeveloped land or agricultural land uses.

(29) “NRCS” means the natural resources conservation service of the U.S. department of agriculture.

(30) “Ordinary high water mark” has the meaning given in s. NR 115.03 (6).

(31) “Outstanding resource waters” means waters listed in s. NR 102.10.

(32) “Percent fines” means the percentage of a given sample of soil, which passes through a # 200 sieve.

**Note:** Percent fines can be determined using the “American Society for Testing and Materials”, volume 04.02, “Test Method C117–95 Standard Test Method for Materials Finer than 75-µm (No. 200) Sieve in Material Aggregates by Washing”. Copies can be obtained by contacting the American society for testing and materials, 100 Barr Harbor Drive, Conshohocken, PA 19428–2959, or phone 610–832–9585, or on line at: <http://www.astm.org/>.

(33) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(34) “Pervious surface” means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or similar vegetated areas are examples of surfaces that typically are pervious.

(35) “Pollutant” has the meaning given in s. 283.01 (13), Stats.

(36) “Pollution” has the meaning given in s. 281.01 (10), Stats.

(37) “Population” has the meaning given in s. 281.66 (1) (c), Stats.

(38) “Preventive action limit” has the meaning given in s. NR 140.05 (17).

(39) “Redevelopment” means areas where development is replacing older development.

(40) “Runoff” means storm water or precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

(41) “Sediment” means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

(42) “Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

(a) Is designed or used for collecting water or conveying runoff.

(b) Is not part of a combined sewer system.

(c) Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

(d) Discharges directly or indirectly to waters of the state.

**(42m)** “Silviculture activity” means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

**(43)** “Storm water management plan” means a comprehensive plan designed to reduce the discharge of pollutants from storm water, after the site has undergone final stabilization, following completion of the construction activity.

**(44)** “Targeted performance standard” means a performance standard that will apply in a specific area, where additional practices beyond those contained in this chapter, are necessary to meet water quality standards.

**(45)** “Technical standard” means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

**(46)** “Top of the channel” means an edge, or point on the landscape landward from the ordinary high water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet landward from the ordinary high water mark, the top of the channel is the ordinary high water mark.

**(46m)** “Total maximum daily load” or “TMDL” means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.

**(47)** “TR-55” means the United States department of agriculture, natural resources conservation service (previously soil conservation service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986, which is incorporated by reference for this chapter.

**Note:** Copies of this document may be inspected at the offices of the department’s bureau of watershed management, the natural resources conservation service, the secretary of state, and the legislative reference bureau, all in Madison, WI.

**(48)** “Transportation facility” means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095 (1) (b), Stats. “Transportation facility” does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the department pursuant to s. 281.33, Stats.

**(49)** “Type II distribution” means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”, which is incorporated by reference for this chapter. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

**Note:** Copies of this document may be inspected at the offices of the department’s bureau of watershed management, the natural resources conservation service, the secretary of state, and the legislative reference bureau, all in Madison, WI.

**(49m)** “US EPA” means the United States environmental protection agency.

**(50)** “Waters of the state” has the meaning given in s. 283.01 (20), Stats.

**(51)** “WPDES permit” means a Wisconsin pollutant discharge elimination system permit issued under ch. 283, Stats.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. (3), (6), (17), (18), (25), (42) (c), cr. (11m), (14g), (14r), (16m), (42m), (46m), (49m), r. (21) Register December 2010 No. 660, eff. 1-1-11; corrections in (48) made under s. 13.92 (4) (b) 6. and 7., Stats., Register December 2010 No. 660.

**NR 151.003 BMP Location.** (1) **NON-NAVIGABLE WATERS.** For purposes of determining compliance with the performance standards of subchs. III and IV, the department may give

credit for BMPs that function to provide treatment for runoff from existing development and post-construction runoff from new development, redevelopment, and in-fill development and that are located within non-navigable waters.

**(2) NAVIGABLE WATERS.** (a) *New development runoff.* Except as allowed under par. (b), BMPs designed to treat post-construction runoff from new development may not be located in navigable waters and, for purposes of determining compliance with the performance standards of subchs. III and IV, the department may not give credit for such BMPs.

(b) *New development runoff exemption.* BMPs to treat post-construction runoff from new development may be located within navigable waters and may be creditable by the department under subchs. III and IV, if all the following are met:

1. The BMP was constructed prior to October 1, 2002, and received all applicable permits.
2. The BMP functions or will function to provide runoff treatment for the new development.

(c) *Existing development and post-construction runoff from redevelopment and in-fill development.* Except as provided in par. (d), BMPs that function to provide runoff treatment for existing development and post-construction runoff from redevelopment and in-fill development may not be located in navigable waters and, for purposes of determining compliance with the performance standards of subchs. III and IV, the department may not give credit for such BMPs.

(d) *Existing development and post-construction runoff from redevelopment and in-fill development exemption.* BMPs that function to provide treatment of runoff from existing development and post-construction runoff from redevelopment and in-fill development may be located within navigable waters and may be creditable by the department under subchs. III and IV, if any of the following are met:

1. The BMP was constructed, contracts were signed or bids advertised and all applicable permits were received prior to January 1, 2011.
2. The BMP is on an intermittent waterway and all applicable permits are received.

**Note:** An intermittent waterway may be identified on a United States geological survey 7.5-minute series topographic map, a county soil survey map, the Surface Water Data Viewer Map, 24K hydro layer on the department’s website, or determined by the department through a site evaluation, whichever is more current. The Surface Water Data Viewer Map, 24K hydro layer is available at [http://dnr.wi.gov/org/water/data\\_viewer.htm](http://dnr.wi.gov/org/water/data_viewer.htm).

**(3) CREDIT.** The amount of credit that the department may give a BMP for purposes of determining compliance with the performance standards of subchs. III and IV is limited to the treatment capability of the BMP.

**Note:** This section does not supersede any other applicable federal, state, or local regulation such as ch. NR 103 or ch. 30, Stats. Federal, state, and local permits or approvals may be required to excavate, dredge, fill, or construct BMPs in or near wetlands, non-navigable or navigable waters. Other permits and approvals may not be authorized where the BMP construction will result in adverse environmental impacts to the waterway or wetland.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: r. and recr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.004 State targeted performance standards.** Implementation of the statewide performance standards and prohibitions in this chapter may not be sufficient to achieve water quality standards under chs. NR 102 to 105 or groundwater standards under ch. NR 140. In those cases, using modeling or monitoring, the department shall determine if a specific waterbody or area will not attain water quality standards or groundwater standards after substantial implementation of the performance standards and prohibitions in this chapter. If the department finds that water quality standards or groundwater standards will not be attained using statewide performance standards and prohibitions but the implementation of targeted performance standards would attain water quality standards or groundwater standards, the

department shall promulgate the targeted performance standards by rule.

**Note:** Pursuant to s. 281.16 (2) (a) and (3) (a), Stats., the performance standards shall be designed to meet state water quality standards.

**Note:** Pursuant to s. 281.16 (3), Stats., the department of agriculture, trade and consumer protection shall develop or specify the best management practices, conservation practices or technical standards used to demonstrate compliance with a performance standard developed under s. NR 151.004.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.005 Performance standard for total maximum daily loads.** A crop producer or livestock producer subject to this chapter shall reduce discharges of pollutants from a livestock facility or cropland to surface waters if necessary to meet a load allocation in a US EPA and state approved TMDL.

(1) A crop producer or livestock producer subject to this chapter shall use the best management practices, conservation practices, or technical standards established under ch. ATCP 50 to meet a load allocation in a US EPA and state approved TMDL.

(2) If compliance with a more stringent or additional performance standard, other than the performance standards contained in this chapter, is required for crop producers or livestock producers to meet a load allocation in a US EPA and state approved TMDL, the department shall use the procedure in s. NR 151.004 to promulgate the more stringent or additional performance standard before compliance is required.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.006 Applicability of maximum extent practicable.** Maximum extent practicable applies when a person who is subject to a performance standard of subchs. III and IV demonstrates to the department's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, an applicant shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

## Subchapter II — Agricultural Performance Standards and Prohibitions

**NR 151.01 Purpose.** The purpose of this subchapter is to prescribe performance standards and prohibitions in accordance with the implementation and enforcement procedures contained in ss. NR 151.09 and 151.095 for agricultural facilities, operations and practices.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02.

**NR 151.015 Definitions.** In this subchapter:

(1) "Accounting period" means the crop rotation period over which compliance is measured and consists of the current year and extends back the previous 7 years moving forward each consecutive year creating a rolling time period not to exceed 8 years.

(3) "Conservation practice" means a best management practice designed to reduce or prevent soil or sediment loss to the waters of the state.

(4) "Crop producer" means an owner or operator of an operation engaged in crop related agricultural practices specified in s. 281.16 (1) (b), Stats.

(5) "Cropland practice" means the method, activity or management measure used to produce or harvest crops.

(6) "County land conservation committee" means the committee created by a county board under s. 92.06, Stats. "County land conservation committee" includes employees or agents of

the committee whom, with committee authorization, act on behalf of the committee.

(7) "Direct runoff" includes any of the following:

(a) Runoff from a feedlot that can be predicted to discharge a significant amount of pollutants to surface waters of the state or to a direct conduit to ground water.

(b) Runoff of stored manure, including manure leachate, that discharges a significant amount of pollutants to surface waters of the state or to a direct conduit to ground water.

(c) Construction of a manure storage facility in permeable soils or over fractured bedrock without a liner designed in accordance with s. NR 154.04 (3).

(d) Discharge of a significant amount of leachate from stored manure to waters of the state.

(8) "Feedlot" means a barnyard, exercise area, or other outdoor area where livestock are concentrated for feeding or other purposes and self-sustaining vegetative cover is not maintained. "Feedlot" does not include a winter grazing area or a bare soil area such as a cattle lane or a supplemental feeding area located within a pasture, provided that the bare soil area is not a significant source of pollution to waters of the state.

(9) "Livestock facility" means a structure or system constructed or established on a livestock operation.

(10) "Livestock producer" means an owner or operator of a livestock operation.

(11) "Livestock operation" has the meaning given in s. 281.16 (1) (c), Stats.

(12) "Manure" means a material that consists primarily of excreta from livestock, poultry or other animals.

(13) "Manure storage facility" means an impoundment made by constructing an embankment or excavating a pit or dugout or by fabricating a structure to contain manure and other animal or agricultural wastes.

(13g) "Margin of safety level" has the meaning given it in s. NR 243.03 (37).

(13m) "Municipality" has the meaning given in s. 281.01 (6), Stats.

(14) "NOD" means a notice of discharge issued under s. NR 243.24 (4).

(15) "Operator" means a person responsible for the oversight or management of equipment, facilities or livestock at a livestock operation, or is responsible for land management in the production of crops.

(15e) "Overflow" means discharge of manure to the environment resulting from flow over the brim of a facility or from flow directed onto the ground through a man-made device including a pump or pipe.

(15m) "Pasture" means land on which livestock graze or otherwise seek feed in a manner that maintains the vegetative cover over the grazing area. Pasture may include limited areas of bare soil such as cattle lanes and supplemental feeding areas provided the bare soil areas are not significant sources of pollution to waters of the state.

(15s) "Phosphorus index" or "P-index" means Wisconsin's agricultural land management planning tool for assessing the potential of a cropped or grazed field to contribute phosphorus to the surface water.

(16) "Process wastewater" has the meaning given in s. NR 243.03 (53).

(18) "Site that is susceptible to groundwater contamination" under s. 281.16 (1) (g), Stats., means any one of the following:

(a) An area within 250 feet of a private well.

(b) An area within 1000 feet of a municipal well.

(c) An area within 300 feet upslope or 100 feet downslope of a direct conduit to groundwater.

(d) A channel that flows to a direct conduit to groundwater.



(e) An area where the soil depth to groundwater or bedrock is less than 2 feet.

(f) An area where the soil does not exhibit one of the following soil characteristics:

1. At least a 2-foot soil layer with 40% fines or greater above groundwater and bedrock.
2. At least a 3-foot soil layer with 20% fines or greater above groundwater and bedrock.
3. At least a 5-foot soil layer with 10% fines, or greater above groundwater and bedrock.

**Note:** See s. NR 151.002 (32) for definition of percent fines.

(19) "Stored manure" means manure that is kept in a manure storage facility or an unconfined manure pile.

(20) "Substantially altered" means a change initiated by an owner or operator that results in a relocation of a structure or facility or significant changes to the size, depth or configuration of a structure or facility including:

- (a) Replacement of a liner in a manure storage structure.
- (b) An increase in the volumetric capacity or area of a structure or facility by greater than 20%.
- (c) A change in a structure or facility related to a change in livestock management from one species of livestock to another such as cattle to poultry.

(21) "Tolerable soil loss" or "T" means the maximum rate of erosion, in tons per acre per year, allowable for particular soils and site conditions that will maintain soil productivity.

(22) "Unconfined manure pile" means a quantity of manure that is at least 175 ft<sup>3</sup> in volume and which covers the ground surface to a depth of at least 2 inches and is not confined within a manure storage facility, livestock housing facility or barnyard runoff control facility or covered or contained in a manner that prevents storm water access and direct runoff to surface water or leaching of pollutants to groundwater.

(24) "Water quality management area" or "WQMA" means the area within 1,000 feet from the ordinary high water mark of navigable waters that consist of a lake, pond or flowage, except that, for a navigable water that is a glacial pothole lake, the term means the area within 1,000 feet from the high water mark of the lake; the area within 300 feet from the ordinary high water mark of navigable waters that consist of a river or stream; and a site that is susceptible to groundwater contamination, or that has the potential to be a direct conduit for contamination to reach groundwater.

(25) "Winter grazing area" means a cropland or pasture where livestock feed on dormant vegetation or crop residue, with or without supplementary feed, during the period of October 1 to April 30.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: r. and recr. (1), (8), (16), am. (7), (18) (c), (d), cr. (13g), (15e), (15m), (15s), (25), r. (17) Register December 2010 No. 660, eff. 1-1-11.

**NR 151.02 Sheet, rill and wind erosion performance standard.** (1) All land where crops or feed are grown, including pastures, shall be managed to achieve a soil erosion rate equal to, or less than, the "tolerable" (T) rate established for that soil.

(2) This standard first applies to pastures beginning July 1, 2012.

**Note:** Soil loss will be calculated according to the revised universal soil loss equation II as referenced in ch. ATPC 50 and appropriate wind loss equations as referenced in ch. ATPC 50.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.03 Tillage setback performance standard.** The purpose of this standard is to prevent tillage operations from destroying stream banks and depositing soil directly in surface waters. In this section, "surface water" has the meaning given in s. NR 102.03 (7).

(1) No crop producer may conduct a tillage operation that negatively impacts stream bank integrity or deposits soil directly in surface waters.

(2) No tillage operations may be conducted within 5 feet of the top of the channel of surface waters. Tillage setbacks greater than 5 feet but no more than 20 feet may be required to meet this standard.

(3) Crop producers shall maintain the area within the tillage setback required under sub. (2) in adequate sod or self-sustaining vegetative cover that provides a minimum of 70% coverage.

(4) This section does not apply to grassed waterways installed as conservation practices.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11; correction to (intro.) made under s. 13.92 (4) (b) 7., Stats., Register December 2010 No. 660.

**NR 151.04 Phosphorus index performance standard.** (1) All crop and livestock producers shall comply with this section.

(2) (a) Croplands, pastures, and winter grazing areas shall average a phosphorus index of 6 or less over the accounting period and may not exceed a phosphorus index of 12 in any individual year within the accounting period.

(b) Except as provided under sub. (3), for purposes of compliance with this section the phosphorus index shall be calculated using the version of the Wisconsin Phosphorus Index available as of January 1, 2011.

**Note:** The Wisconsin Phosphorus Index is maintained by the University of Wisconsin department of soil science and can be found at <http://wpindex.soils.wisc.edu/>.

**Note:** Soil test phosphorus concentration may be used to help identify fields that are high priority for evaluation with the Wisconsin Phosphorus Index. For example, croplands with soil test phosphorus concentrations of 35 parts per million or greater should be given higher priority for evaluation.

**Note:** Best management practices developed by the department of agriculture, trade and consumer protection may be used alone or in combination to meet the requirements of this section.

(c) The accounting period required under par. (a) shall meet the following conditions:

1. The accounting period shall begin once a nutrient management plan meeting the requirements of s. NR 151.07 and s. ATPC 50.04 (3) is completed.

2. During the first 8 years of implementation of this standard by a producer, computation of the phosphorus index may be based on a combination of planned crop management and historic data. Planned crop management data is based on projected management and crop rotations. Historic data is based on management and crop rotations that have actually occurred.

3. Once the nutrient management plan under s. NR 151.07 and s. ATPC 50.04 (3) is developed, historic data shall be used for each year as it becomes available.

(3) If the phosphorus index is not applicable to a particular crop or situation, an equivalent calculation approved by the department shall be used to meet the requirements of this section.

**Note:** The requirement provides for alternative methods to calculate a phosphorus index. Some strategies for assessing and reducing phosphorus index values, algorithms, and software can be found at <http://wpindex.soils.wisc.edu/>.

(4) Producers may not apply nutrients or manure directly, through mechanical means, to surface waters as defined in s. NR 102.03 (7).

(5) The phosphorus index requirement under sub. (2) (a) first takes effect for pastures beginning July 1, 2012.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11; correction to (4) made under s. 13.92 (4) (b) 7., Stats., Register December 2010 No. 660.

**NR 151.05 Manure storage facilities performance standards.** (1) **APPLICABILITY.** All livestock producers building new manure storage facilities, substantially altering manure storage facilities, or choosing to abandon their manure storage facilities shall comply with this section.

(2) **NEW CONSTRUCTION AND ALTERATIONS.** (a) New or substantially altered manure storage facilities shall be designed, constructed and maintained to minimize the risk of structural failure



of the facility and minimize leakage of the facility in order to comply with groundwater standards. The levels of materials in the storage facility may not exceed the margin of safety level.

(am) Storage facilities that are constructed or significantly altered on or after January 1, 2011, shall be designed and operated to contain the additional volume of runoff and direct precipitation entering the facility as a result of a 25-year, 24-hour storm.

(b) A new manure storage facility means a facility constructed after October 1, 2002.

(c) A substantially altered manure storage facility is a manure storage facility that is substantially altered after October 1, 2002.

(3) CLOSURE. (a) Closure of a manure storage facility shall occur when an operation where the facility is located ceases operations, or manure has not been added or removed from the facility for a period of 24 months. Manure facilities shall be closed in a manner that will prevent future contamination of groundwater and surface waters.

(b) The owner or operator may retain the facility for a longer period of time by demonstrating to the department that all of the following conditions are met:

1. The facility is designed, constructed and maintained in accordance with sub. (2).
2. The facility is designed to store manure for a period of time longer than 24 months.
3. Retention of the facility is warranted based on anticipated future use.

(4) EXISTING FACILITIES. (a) Manure storage facilities in existence as of October 1, 2002, that pose an imminent threat to public health, fish and aquatic life, or groundwater shall be upgraded, replaced, or abandoned in accordance with this section.

(b) Levels of materials in storage facilities may not exceed the margin of safety level.

**Note:** Manure storage facilities are sometimes used to store non-agricultural wastes, such as septage or organic food wastes. These facilities may be subject to additional regulatory and cost-sharing requirements.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. (title), (2) (a), (4), cr. (2) (am) Register December 2010 No. 660, eff. 1-1-11.

**NR 151.055 Process wastewater handling performance standard.** (1) All livestock producers shall comply with this section.

(2) There may be no significant discharge of process wastewater to waters of the state.

(3) The department shall consider all of the following factors when determining whether a discharge of process wastewater is a significant discharge to waters of the state:

- (a) Volume and frequency of the discharge.
- (b) Location of the source relative to receiving waters.
- (c) Means of process wastewater conveyance to waters of the state.

(d) Slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of process wastewater discharge to waters of the state.

(e) Available evidence of discharge to a surface water of the state or to a direct conduit to groundwater as defined under s. NR 151.002 (11m).

(f) Whether the process wastewater discharge is to a site that is defined as a site susceptible to groundwater contamination under s. NR 151.015 (18).

(g) Other factors relevant to the impact of the discharge on water quality standards of the receiving water or to groundwater standards.

**Note:** Existing technical standards contained in the U.S. department of agriculture natural resources conservation service field office technical guide may be used for managing process wastewater. When such standards are not applicable, the landowner or operator is expected to take reasonable steps to reduce the significance of the discharge in accordance with the agricultural performance standard and prohibition compliance requirements of this chapter. The Wisconsin department of agricul-

ture, trade and consumer protection is responsible under s. 281.16 (3) (c), Stats., for developing additional management practices if needed.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.06 Clean water diversion performance standard.** (1) All livestock producers within a water quality management area shall comply with this section.

(2) Runoff shall be diverted away from contacting feedlot, manure storage areas and barnyard areas within water quality management areas except that a diversion to protect a private well under s. NR 151.015 (18) (a) is required only when the feedlot, manure storage area or barnyard area is located upslope from the private well.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. (title) Register December 2010 No. 660, eff. 1-1-11.

**NR 151.07 Nutrient management.** (1) All crop producers and livestock producers that apply manure or other nutrients directly or through contract to agricultural fields shall comply with this section.

**Note:** Manure management requirements for concentrated animal feeding operations covered under a WPDES permit are contained in ch. NR 243.

(2) This performance standard does not apply to the application of industrial waste and byproducts regulated under ch. NR 214, municipal sludge regulated under ch. NR 204, and septage regulated under ch. NR 113, provided the material is not commingled with manure prior to application.

**Note:** In accordance with ss. ATCP 50.04, 50.48 and 50.50, nutrient management planners, Wisconsin certified soil testing laboratories and dealers of commercial fertilizer are advised to make nutrient management recommendations based on the performance standard for nutrient management, s. NR 151.07, to ensure that their customers comply with this performance standard.

**Note:** If an application of material to cropland is regulated under ch. NR 113, 204, or 214, the management practices, loading limitations, and other restrictions specified in the applicable regulation apply to that application. However, nutrient management plans developed in accordance with this performance standard must account for all nutrient sources, including industrial waste and byproducts, municipal sludge, and septage. This means that the future application of manure and commercial fertilizer may be restricted by this performance standard due to other applications of industrial waste and byproducts, municipal sludge, and septage. In addition, it means that if industrial waste and byproducts, municipal sludge, or septage are placed in a manure storage structure and mixed with manure, the commingled material is also covered by this standard and must be accounted for by the producer when preparing and implementing a nutrient management plan.

(3) Manure, commercial fertilizer and other nutrients shall be applied in conformance with a nutrient management plan.

(a) The nutrient management plan shall be designed to limit or reduce the discharge of nutrients to waters of the state for the purpose of complying with state water quality standards and groundwater standards.

(b) Nutrient management plans for croplands in watersheds that contain impaired surface waters or in watersheds that contain outstanding or exceptional resource waters shall meet the following criteria:

1. Unless otherwise provided in this paragraph, the plan shall be designed to manage soil nutrient concentrations so as to maintain or reduce delivery of nutrients contributing to the impairment of impaired surface waters and to outstanding or exceptional resource waters.

2. The plan may allow for an increase in soil nutrient concentrations at a site if necessary to meet crop demands.

3. For lands in watersheds containing exceptional or outstanding resource waters, the plan may allow an increase in soil nutrient concentrations if the plan documents that any potential nutrient delivery to the exceptional or outstanding resource waters will not alter the background water quality of the exceptional or outstanding resource waters. For lands in watersheds containing impaired waters, the plan may allow an increase in soil nutrient concentrations if a low risk of delivery of nutrients from the land to the impaired water can be demonstrated.

(c) In this standard, impaired surface waters are waters identified as impaired pursuant to 33 USC 1313 (d) (1) (A) and 40 CFR

130.7. Outstanding or exceptional resource waters are identified in ch. NR 102.

(4) This section is in effect on January 1, 2005 for existing croplands under s. NR 151.09 (4) that are located within any of the following:

(a) Watersheds containing outstanding or exceptional resource waters.

(b) Watersheds containing impaired waters.

(c) Source water protection areas defined in s. NR 243.03 (61).

(5) This section is in effect on January 1, 2008 for all other existing croplands under s. NR 151.09 (4).

(6) This section is in effect for all new croplands under s. NR 151.09 (4) on October 1, 2003.

**Note:** The purpose of the phased implementation of this standard is to allow the department sufficient time to work with the Department of Agriculture, Trade and Consumer Protection and local governmental units to develop and implement an information, education and training program on nutrient management for affected stakeholders.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. (2) Register December 2010 No. 660, eff. 1-1-11; correction to (4) (c) made under s. 13.92 (4) (b) 7., Stats., Register December 2010 No. 660.

### NR 151.08 Manure management prohibitions.

(1) All livestock producers shall comply with this section.

(2) A livestock operation shall have no overflow of manure storage facilities.

(3) A livestock operation shall have no unconfined manure pile in a water quality management area.

(4) A livestock operation shall have no direct runoff from a feedlot or stored manure into the waters of the state.

(5) (a) A livestock operation may not allow unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod or self-sustaining vegetative cover.

(b) This prohibition does not apply to properly designed, installed and maintained livestock or farm equipment crossings.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02.

### NR 151.09 Implementation and enforcement procedures for cropland performance standards. (1) PURPOSE.

The purpose of this section is to identify the procedures the department will follow in implementing and enforcing the cropland performance standards pursuant to ss. 281.16 (3) and 281.98, Stats. This section will also identify circumstances under which an owner or operator of cropland is required to comply with the cropland performance standards. In this section, "cropland performance standards" means performance standards in ss. NR 151.005, 151.02, 151.03, 151.04, and 151.07.

(2) ROLE OF MUNICIPALITIES. The department may rely on municipalities to implement the procedures and make determinations established in this section.

**Note:** In most cases, the department will rely on municipalities to fully implement the cropland performance standards. The department intends to utilize the procedures in this section in cases where a municipality has requested assistance in implementing and enforcing the cropland performance standards or in cases where a municipality has failed to address an incident of noncompliance with the performance standards in a timely manner. The department recognizes that coordination between local municipalities, the Department of Agriculture, Trade and Consumer Protection and other state agencies is needed to achieve statewide compliance with the performance standards. Accordingly, the department plans on working with counties, the Department of Agriculture, Trade and Consumer Protection and other interested partners to develop a detailed intergovernmental strategy for achieving compliance with the performance standards that recognizes the procedures in these rules, state basin plans and the priorities established in land and water conservation plans.

**Note:** The department implementation and enforcement procedures for livestock performance standards relating to manure management are included in s. NR 151.095 and ch. NR 243.

(3) LANDOWNER AND OPERATOR REQUIREMENTS. (a) *Introduction.* This section identifies compliance requirements for landowners and operators based on whether the cropland is existing or new and whether cost sharing is required and made available to the landowner or operator.

(b) *General requirements.* If any cropland is meeting a cropland performance standard on or after the effective date of the standard, the cropland performance standard shall continue to be met by the existing landowner or operator, heirs or subsequent owners or operators of the cropland. If a landowner or operator alters or changes the management of the cropland in a manner that results in noncompliance with the performance standard, the landowner or operator shall bring the cropland back into compliance, regardless of whether cost-sharing is made available. This paragraph does not apply to croplands completing enrollment determined to be existing under sub. (4) (b) 2.

**Note:** The department or a municipality may use conservation plans, cost share agreements, deed restrictions, personal observations, landowner records, or other information to determine whether a change has occurred.

(c) *Existing cropland requirements.* 1. A landowner or operator of an existing cropland, defined under sub. (4) (b), shall comply with a cropland performance standard if all of the following have been done by the department:

a. Except as provided in subds. 2. and 3., a determination is made that cost sharing has been made available in accordance with sub. (4) (d) on or after the effective date of the cropland performance standard.

b. The landowner or operator has been notified in accordance with sub. (5) or (6).

2. A landowner or operator of existing cropland, defined under sub. (4) (b), shall comply with a cropland performance standard, regardless of whether cost sharing is available, in situations where the best management practices and other corrective measures needed to meet the performance standards do not involve eligible costs.

3. A landowner or operator of an existing cropland that voluntarily proposes to construct or reconstruct a manure storage system shall comply with s. NR 151.07, regardless of whether cost sharing is made available, if the nutrient management plan is required pursuant to a local permit for the manure storage system.

**Note:** Although the requirement for the nutrient management plan in this subd. 3 is tied to construction of a new manure storage system, the department intends to implement the nutrient management standard through s. NR 151.09 rather than through s. NR 151.095.

(d) *New cropland requirements.* A landowner or operator of a new cropland, defined under sub. (4) (b), shall comply with the cropland performance standards, regardless of whether cost sharing is available.

**Note:** Under s. 281.16 (3) (e), Stats., a landowner or operator may not be required by the state or a municipality through an ordinance to bring existing croplands into compliance with the cropland performance standards, technical standards or conservation practices unless cost-sharing is available in accordance with this section.

(4) DEPARTMENT DETERMINATIONS. (a) *Scope of determinations.* If croplands are not in compliance with a cropland performance standard, the department shall make determinations in accordance with the procedures and criteria in this subsection.

(b) *Cropland status.* The department shall classify non-complying croplands to be either new or existing for purposes of administering this section and s. 281.16 (3) (e), Stats. In making the determination, the department shall base the decision on the following:

1. An existing cropland is one that meets all of the following criteria:

a. The cropland was being cropped as of the effective date of the standard.

b. The cropland is not in compliance with a cropland performance standard in this subchapter as of the effective date of the standard. The reason for non-compliance of the cropland may not be failure of the landowner or operator to maintain an installed best management practice in accordance with a cost-share agreement or contract.

2. An existing cropland also includes land enrolled on October 1, 2002, in the conservation reserve or conservation reserve enhancement program administered by the U.S. department of

agriculture. This subdivision does not apply to croplands re-enrolled after October 1, 2002.

3. A new cropland is one that does not meet the definition under subd. 1. or 2., including:

a. Land without a previous history of cropping that is converted to cropland after the effective date of the standard. "Without a previous history of cropping" means land where crops have not been grown and harvested for agricultural purposes in the last 10 years prior to the conversion to cropland.

b. Cropland that is in existence and in compliance with a performance standard on or after the effective date of the standard and that undergoes a change in a cropland practice that results in non-compliance with the performance standards.

**Note:** The department or a municipality may use conservation plans, cost share agreements, deed restrictions, personal observations, landowner records, or other information to determine whether a change has occurred.

4. Change in ownership may not be used as the sole basis for determining whether a cropland is existing or new for purposes of administering this subsection.

(c) *Eligible costs.* 1. If cost sharing is required to be made available under sub. (3) (c), the department shall determine the total cost of best management practices and corrective measures needed to bring a cropland into compliance with performance standards and shall determine which of those costs are eligible for cost-sharing for the purposes of administering this section and s. 281.16 (3) (e), Stats.

2. The cost-share eligibility provisions identified in chs. NR 153 and 154 shall be used in identifying eligible costs for installation of best management practices and corrective measures.

3. Eligible technical assistance costs include best management practice planning, design, installation supervision, and installation certification.

4. If cost sharing is provided by DATCP or the department, the corrective measures shall be implemented in accordance with the BMPs and technical standards specified in ch. NR 154 or subch. VIII of ch. ATPC 50.

**Note:** Under chs. NR 153 and 154, eligible costs typically include capital costs and significant other expenses, including design costs, incurred by the landowner or operator. Eligible costs do not include the value or amount of time spent by a landowner or operator in making management changes.

(d) *Determination of cost-share availability.* 1. For purposes of administering this section and s. 281.16 (3) (e), Stats., if cost sharing is required to be made available under sub. (3), the department shall make a determination as to whether cost sharing has been made available on or after the effective date of the cropland standard to cover the eligible costs for a landowner or operator to comply with the cropland performance standard.

2. Cost sharing under s. 281.65, Stats., shall be considered available when all of the following have been met:

a. Cost share dollars are offered in accordance with either of the following: the department has entered into a runoff management grant agreement under ch. NR 153 or a nonpoint source grant agreement under ch. NR 120, and a notice under sub. (5), including any required offer of cost sharing, has been issued by the department or a municipality; or the department directly offers cost share assistance and issues a notice under sub. (5).

b. The grants in subd. 2. a., alone or in combination with other funding determined to be available under subd. 3., provide at least 70% of the eligible costs to implement the best management practices or other corrective measures for croplands needed to meet a cropland performance standard.

c. In cases of economic hardship determined in accordance with s. NR 154.03 (3), the grants in subd. 2. a., alone or in combination with other funding determined to be available under subd. 3., provide cost sharing consistent with the hardship determination.

3. For funding sources other than those administered by s. 281.65, Stats., the department may make a determination of cost share availability after consulting with DATCP and ch. ATPC 50.

**Note:** Under s. 281.16 (3) (e), DATCP is responsible for promulgating rules that specify criteria for determining whether cost-sharing is available from sources other than s. 281.65, Stats., including s. 92.14, Stats. Pursuant to s. 281.16 (3) (e), Stats., a municipality is required to follow the department's definition of cost-share availability if funds are utilized under s. 281.65, Stats. If funds are utilized from any other source, a municipality must defer to DATCP's definition of cost-share availability.

(5) **NOTIFICATION REQUIREMENTS AND COMPLIANCE PERIODS FOR EXISTING CROPLANDS WHEN COST-SHARING IS REQUIRED.** (a) *Landowner notification.* 1. The department shall notify a landowner or operator in writing of the determinations made under sub. (4) and implementation requirements for existing croplands where cost sharing is required for compliance.

2. The notice shall be sent certified mail, return receipt requested or personal delivery.

3. The following information shall be included in the notice:

a. A description of the cropland performance standard being violated.

b. The cropland status determination made in accordance with sub. (4) (b).

c. The determination made in accordance with sub. (4) (c) as to which best management practices or other corrective measures that are needed to comply with cropland performance standards are eligible for cost sharing.

**Note:** Some best management practices required to comply with cropland performance standards involve no eligible cost to the landowner or operator and are not eligible for cost sharing.

d. The determination made in accordance with sub. (4) (d) that cost sharing is available for eligible costs to achieve compliance with cropland performance standards, including a written offer of cost sharing.

e. An offer to provide or coordinate the provision of technical assistance.

f. A compliance period for meeting the cropland performance standard.

g. An explanation of the possible consequences if the landowner or operator fails to comply with provisions of the notice, including enforcement or loss of cost sharing, or both.

(b) *Compliance schedule.* 1. A landowner or operator that receives the notice under par. (a) shall install or implement best management practices and corrective measures to meet the performance standards in the time period specified in the notice, if cost sharing is available in accordance with sub. (4) (d) 2.

2. The compliance period identified in the notice in par. (a) shall be determined by the department as follows:

a. The compliance period shall begin on the postmark date of the notice or the date of personal delivery.

b. The length of the compliance period shall be not less than 60 days nor more than 3 years unless otherwise provided for in this subdivision.

c. The length of the compliance period may be less than 60 days if the site is an imminent threat to public health, fish and aquatic life.

d. The department may authorize an extension up to 4 years on a case-by-case basis provided that the reasons for the extension are beyond the control of the landowner or operator. A compliance period may not be extended to exceed 4 years in total.

3. Once a landowner or operator achieves compliance with a cropland performance standard, compliance with the standard shall be maintained by the existing landowner or operator and heirs or subsequent owners, regardless of cost sharing.

(6) **NOTIFICATION REQUIREMENTS AND COMPLIANCE PERIODS FOR EXISTING CROPLANDS IN SITUATIONS WHEN NO ELIGIBLE COSTS ARE INVOLVED.** (a) *Landowner notification.* 1. The department



shall notify a non-complying landowner or operator of existing croplands of the determinations made under sub. (4).

2. The notice shall be sent certified mail, return receipt requested, or via personal delivery.

3. The following information shall be included in the notice:

a. A description of the cropland performance standard that is being violated and the determination that corrective measures do not involve eligible costs under sub. (4) (c).

b. The cropland status determination made in accordance with sub. (4) (b).

c. A compliance period for achieving the cropland performance standard. The compliance period may not exceed the time limits in par. (b).

d. An explanation of the consequences if the landowner or operator fails to comply with provisions of the notice.

(b) *Compliance period.* 1. The compliance period for existing croplands where best management practices and other corrective measures do not involve eligible costs shall be in accordance with the following:

a. The compliance period shall begin on the postmark date of the notice or the date of personal delivery.

b. The length of the compliance period shall be not less than 60 days nor more than 3 years unless otherwise provided for in this subsection.

c. The length of the compliance period may be less than 60 days if the site is an imminent threat to public health, fish and aquatic life.

2. Once compliance with a cropland performance standard is attained, compliance with the standard shall be maintained by the existing landowner or operator and heirs or subsequent owners.

(c) *Combined notices.* The department may meet multiple notification requirements under par. (a), sub. (5) and s. NR 151.095 within any single notice issued to a landowner or operator.

(7) **ENFORCEMENT.** (a) *Authority to initiate enforcement.* The department may take enforcement action pursuant to s. 281.98, Stats., or other appropriate actions, against the landowner or operator of a cropland for failing to comply with the cropland performance standards in this subchapter or approved variances to the cropland performance standards provided by the department under s. NR 151.097.

(b) *Enforcement following notice and direct enforcement.* The department shall provide notice to the landowner or operator of an existing cropland in accordance with subs. (5) and (6) prior to the department initiating enforcement action under s. 281.98, Stats., except in cases of repeated mismanagement. In such cases, the department may pursue direct enforcement under s. 281.98, Stats., for the second and any subsequent offenses.

**Note:** The implementation and enforcement procedures in this section are limited to actions taken by the department under s. 281.98, Stats., for noncompliance with a cropland performance standard. Pursuant to other statutory authority, the department may take direct enforcement action without cost sharing against a crop producer for willful or intentional acts or other actions by a landowner or operator that pose an immediate or imminent threat to human health or the environment.

**Note:** An owner or operator of a new cropland is required to meet the cropland performance standards by incorporating necessary management measures at the time the new cropland is created. This requirement shall be met regardless of cost sharing. The department may pursue direct enforcement under s. 281.98, Stats., against landowners or operators of new croplands not in compliance.

(8) **NOTIFICATION TO MUNICIPALITIES.** The department shall notify the appropriate municipality, including a county land conservation committee, prior to taking any of the following actions under this section:

(a) Contacting a landowner or operator to investigate compliance with cropland performance standards.

(b) Issuing a notice under sub. (5) or (6) to a landowner or operator.

(c) Taking enforcement action under s. 281.98, Stats., against a landowner or operator for failing to comply with cropland performance standards in this subchapter.

(d) Notification is not required if the site is an imminent threat to public health or fish and aquatic life.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. (1), (4) (b) 2., (c) 3., (d) 2. a., c., (5) (b) 2. b., (6) (b) 1. b., (7) (b), r. (5) (a) 3. h., (6) (a) 3. e. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.095 Implementation and enforcement procedures for livestock performance standards and prohibitions.** (1) **PURPOSE.** The purpose of this section is to identify the procedures the department will follow in implementing and enforcing the livestock performance standards and prohibitions pursuant to ss. 281.16 (3) and 281.98, Stats. If a livestock performance standard is also listed as a cropland performance standard under s. NR 151.09, the department may choose the procedures of either s. NR 151.09 or this section to obtain compliance with the standard. This section will also identify circumstances under which an owner or operator of a livestock facility is required to comply with livestock performance standards and prohibitions. In this section, "livestock performance standards and prohibitions" means the performance standards and prohibitions in ss. NR 151.005, 151.05, 151.055, 151.06, and 151.08.

**Note:** The nutrient management standard in s. NR 151.07 should be implemented through the procedures in s. NR 151.09.

(2) **ROLE OF MUNICIPALITIES.** The department may rely on municipalities to implement the procedures and make determinations outlined in this section.

**Note:** In most cases, the department will rely on municipalities to fully implement the livestock performance standards and prohibitions. The department intends to utilize the procedures in this section in cases where a municipality has requested assistance in implementing and enforcing the performance standards or prohibitions or in cases where a municipality has failed to address an incident of noncompliance with the performance standards or prohibitions in a timely manner. The department recognizes that coordination between local municipalities, the department of agriculture, trade and consumer protection and other state agencies is needed to achieve statewide compliance with the performance standards and prohibitions. Accordingly, the department plans on working with counties, the department of agriculture, trade and consumer protection and other interested partners to develop a detailed intergovernmental strategy for achieving compliance with the performance standards and prohibitions that recognizes the procedures in these rules, state basin plans and the priorities established in land and water conservation plans.

**Note:** Additional implementation and enforcement procedures for livestock performance standards and prohibitions are in ch. NR 243, including the procedures for the issuance of a NOD.

(3) **EXEMPTIONS.** The department may follow the procedures in ch. NR 243 and is not obligated to follow the procedures and requirements of this section in the following situations:

(a) If the livestock operation holds a WPDES permit.

(b) If the department has determined that the issuance of a NOD to the owner or operator of the livestock operation is warranted. Circumstances in which a NOD may be warranted include:

1. The department has determined that a livestock facility has a point source discharge under s. NR 243.24.

2. The department has determined that a discharge to waters of the state is occurring and the discharge is not related to noncompliance with the performance standards or prohibitions.

3. The department has determined that a municipality is not addressing a facility's noncompliance with the performance standards and prohibitions in a manner consistent with the procedures and timelines established in this section.

(4) **LIVESTOCK OWNER AND OPERATOR REQUIREMENTS.** (a) *Introduction.* This section identifies compliance requirements for a livestock owner or operator based on whether a livestock facility is existing or new and whether cost sharing is required to be made available to a livestock owner or operator.

(b) *General requirements.* If any livestock facility is meeting a livestock performance standard or prohibition on or after the effective date of the standard or prohibition, the livestock performance standard or prohibition shall continue to be met by the



existing owner or operator, heirs or subsequent owners or operators of the facility. If an owner or operator alters or changes the management of the livestock facility in a manner that results in noncompliance with a livestock performance standard or prohibition, the owner or operator shall bring the livestock facility back into compliance regardless of cost-share availability.

**Note:** The department or a municipality may use conservation plans, cost share agreements, deed restrictions, personal observations, landowner records, or other information to determine whether a change has occurred.

(c) *Existing livestock facility requirements.* 1. An owner or operator of an existing livestock facility, defined under sub. (5) (b), shall comply with a livestock performance standard or prohibition if all of the following have been done by the department:

a. Except as provided in subd. 2., a determination is made that cost sharing has been made available in accordance with sub. (5) (d) on or after the effective date of the livestock performance standard or prohibition.

b. The owner or operator of the livestock facility has been notified in accordance with sub. (6) or (7).

2. An owner or operator of an existing livestock facility, defined under sub. (5) (b), shall comply with the livestock performance standards and prohibitions, regardless of whether cost sharing is available, in situations where best management practices and other corrective measures needed to meet the performance standards do not involve eligible costs.

(d) *New livestock facility requirements.* An owner or operator of a new livestock facility, defined under sub. (5) (b), shall comply with the livestock performance standards and prohibitions, regardless of whether cost sharing is available.

**Note:** Under s. 281.16 (3) (e), Stats., an owner or operator may not be required by the state or a municipality through an ordinance or regulation to bring existing livestock facilities into compliance with the livestock performance standards or prohibitions, technical standards or conservation practices unless cost-sharing is available in accordance with this section.

(5) **DEPARTMENT DETERMINATIONS.** (a) *Scope of determinations.* If a livestock facility is not in compliance with a livestock performance standard or prohibition, the department shall make determinations in accordance with the procedures and criteria in this subsection.

(b) *Livestock facility status.* The department shall classify a non-complying livestock facility on an operation to be either new or existing for purposes of administering this section and s. 281.16 (3) (e), Stats. In making the determination, the department shall base the decision on the following:

1. An existing livestock facility is one that meets all of the following criteria:

a. The facility is in existence as of the effective date of the livestock performance standard or prohibition.

b. The facility is not in compliance with a livestock performance standard or prohibition in this subchapter as of the effective date of the livestock performance standard or prohibition. The reason for noncompliance of the livestock facility may not be failure of the owner or operator to maintain an installed best management practice in accordance with a cost-share agreement or contract.

2. A new livestock operation or facility is one that does not meet the definition under subd. 1., including:

a. A livestock operation or facility that is established or installed after the effective date of the livestock performance standard or prohibition, including the placement of livestock structures on a site that did not previously have structures, or placement of animals on lands that did not have animals as of the effective date of the livestock performance standard or prohibition, unless the land is part of an existing rotational grazing or pasturing operation.

b. For a livestock operation that is in existence as of the effective date of the livestock performance standard or prohibition that establishes or constructs or substantially alters a facility after the effective date of the livestock performance standard or prohibition,

the facilities constructed, established or substantially altered after the effective date of the livestock performance standard or prohibition are considered new, except as specified in subd. 3.

c. A livestock facility that is in existence and in compliance with a livestock performance standard or prohibition on or after the effective date of the livestock performance standard or prohibition and that undergoes a change in the livestock facility that results in noncompliance with the livestock performance standard or prohibition. This includes manure storage facilities that fail to meet the requirements of s. NR 151.05 (3) and were either: constructed on or after October 1, 2002; or were constructed prior to October 1, 2002, and subject through October 1, 2002, to the operation and maintenance provisions of a cost share agreement.

3. Pursuant to the implementation procedures in this section, if the department or a municipality directs an owner or operator of an existing livestock facility to construct a facility as a corrective measure to comply with a performance standard or prohibition on or after the effective date of the livestock performance standard or prohibition, or directs the owner or operator to reconstruct the existing facility as a corrective measure on or after the effective date of the livestock performance standard or prohibition, the constructed facilities are not considered new for purposes of installing or implementing the corrective measure.

4. A livestock facility that meets the criteria in subd. 1. and has subsequently been abandoned shall retain its status as an existing livestock facility if livestock of similar species and number of animal units are reintroduced within 5 years of abandonment.

5. Change in ownership may not be used as the basis for determining whether a livestock facility is existing or new for purposes of administering this subsection.

(c) *Eligible costs.* 1. If cost sharing is required to be made available under sub. (4) (c), the department shall determine the total cost of best management practices and corrective measures needed to bring a livestock facility into compliance with a livestock performance standard or prohibition and shall determine which of those costs are eligible for cost sharing for the purposes of administering this section and s. 281.16 (3) (e), Stats.

2. The cost-share eligibility provisions identified in chs. NR 153 and 154 shall be used in identifying eligible costs for installation of best management practices and corrective measures.

3. Eligible technical assistance costs include best management practice planning, design, installation supervision, and installation certification.

4. If cost sharing is provided by DATCP or the department, the corrective measures shall be implemented in accordance with the best management practices and technical standards specified in ch. NR 154 or subch. VIII of ch. ATCP 50.

**Note:** Under chs. NR 153 and 154, eligible costs typically include capital costs and significant other expenses, including design costs, incurred by the owner or operator of the livestock operation. Eligible costs do not include the value or amount of time spent by an owner or operator in making management changes.

(d) *Determination of cost-share availability.* 1. For purposes of administering this section and s. 281.16 (3) (e), Stats., if cost sharing is required to be made available under sub. (4) (c), the department shall make a determination as to whether cost sharing has been made available on or after the effective date of the livestock performance standard or prohibition to cover eligible costs for an owner or operator to comply with a livestock performance standard or prohibition.

2. Cost sharing under s. 281.65, Stats., shall be considered available when all of the following have been met:

a. Cost share dollars are offered in accordance with either of the following: the department has entered into a runoff management grant agreement under ch. NR 153 or a nonpoint source grant agreement under ch. NR 120, and a notice under sub. (6) or under s. NR 243.24 (4), including any required offer of cost sharing, has been issued by the department or a municipality; or the depart-

ment directly offers cost sharing and issues a notice under sub. (6) or s. NR 243.24 (4).

b. The grants in subd. 2. a., alone or in combination with other funding determined to be available under subd. 3., provide at least 70% of the eligible costs to implement the best management practices or other corrective measures needed for a livestock facility to meet a livestock performance standard or prohibition.

c. In cases of economic hardship determined in accordance with s. NR 154.03 (3), the grants in subd. 2. a., alone or in combination with other funding determined to be available under subd. 3., provide cost sharing consistent with the hardship determination.

d. If an existing livestock operation with less than 250 animal units wants to expand at the time it is upgrading a facility to meet a performance standard or prohibition pursuant to a notice in sub. (6) or under s. NR 243.24 (4), the grants in subd. 2. a., alone or in combination with other funding determined to be available under subd. 3., shall also provide at least 70% of eligible costs needed to bring any expansion of facilities of up to 300 animal units into compliance with the performance standard or prohibition. In cases of economic hardship, the grants in subd. 2. a., alone or in combination with other funding determined to be available under subd. 3., shall also provide between 70% and 90% of the eligible costs needed to bring any expansion of facilities of up to 300 animal units into compliance with the performance standards and prohibitions.

**Note:** For livestock operations with less than 250 animal units, that portion of any expansion of facilities to accommodate more than 300 animal units is not eligible for cost sharing under s. NR 153.15 (2) (d) 1. For an existing livestock operation with greater than 250 animal units, but less than the number of animal units requiring a WPDES permit under s. NR 243.12 (1) (a), (b) or (c), cost sharing may be provided under s. NR 153.15 (2) (d) 2., for at least 70% of eligible costs to bring up to a 20% increase in livestock population into compliance with the performance standards and prohibitions; however, cost sharing for eligible costs up to a 20% expansion in livestock population is not required to be made available for compliance.

3. For funding sources other than those administered by s. 281.65, Stats., the department may make a determination of cost share availability after consulting with DATCP and ch. ATPC 50.

**Note:** Under s. 281.16 (3) (e), Stats., DATCP is responsible for promulgating rules that specify criteria for determining whether cost sharing is available from sources other than s. 281.65, Stats., including s. 92.14, Stats. Pursuant to s. 281.16 (3) (e), Stats., a municipality is required to follow the department's definition of cost share availability if funds are utilized under s. 281.65, Stats. If funds are utilized from any other source, a municipality shall defer to DATCP's definition of cost share availability.

**(6) NOTIFICATION REQUIREMENTS AND COMPLIANCE PERIODS FOR EXISTING LIVESTOCK FACILITIES WHEN COST SHARING IS REQUIRED.** (a) *Owner or operator notification.* 1. The department shall notify an owner or operator in writing of the determinations made under sub. (5) and implementation requirements for existing livestock facilities where cost sharing is required for compliance.

2. The notice shall be sent certified mail, return receipt requested or personal delivery.

3. The following information shall be included in the notice:

a. A description of the livestock performance standard or prohibition being violated.

b. The livestock facility status determination made in accordance with sub. (5) (b).

c. The determination made in accordance with sub. (5) (c) as to which best management practices or other corrective measures needed to comply with a livestock performance standard or prohibition are eligible for cost sharing.

**Note:** Some best management practices required to comply with a livestock performance standard or prohibition involves no eligible costs to the owner or operator.

d. The determination made in accordance with sub. (5) (d) that cost sharing is available for eligible costs to achieve compliance with a livestock performance standard or prohibition, including a written offer of cost sharing.

e. An offer to provide or coordinate the provision of technical assistance.

f. A compliance period for meeting the livestock performance standard or prohibition.

g. An explanation of the possible consequences if the owner or operator fails to comply with provisions of the notice, including enforcement or loss of cost sharing, or both.

(b) *Compliance period.* 1. An owner or operator that receives the notice under par. (a) shall install or implement best management practices and corrective measures to meet a performance standard or prohibition in the time period specified in the notice, if cost sharing is available in accordance with sub. (5) (d) 2.

2. The compliance period identified in the notice in par. (a) shall be determined by the department as follows:

a. The compliance period shall begin on the post-mark date of the notice or the date of personal delivery.

b. The length of the compliance period shall be not less than 60 days nor more than 3 years unless otherwise provided for in this subdivision.

c. The length of the compliance period may be less than 60 days if the site is an imminent threat to public health or fish and aquatic life.

d. The department may authorize an extension up to 4 years on a case-by-case basis provided that the reasons for the extension are beyond the control of the owner or operator of the livestock facility. A compliance period may not be extended to exceed 4 years in total.

3. Once an owner or operator achieves compliance with a livestock performance standard or prohibition, compliance with the standard or prohibition shall be maintained by the existing owner or operator and heirs or subsequent owners or operators, regardless of cost sharing.

**(7) NOTIFICATION REQUIREMENTS AND COMPLIANCE PERIODS FOR EXISTING LIVESTOCK FACILITIES IN SITUATIONS WHEN NO ELIGIBLE COSTS ARE INVOLVED.** (a) *Owner or operator notification.* 1. The department shall notify a non-complying owner or operator of an existing livestock facility of the determinations made under sub. (5).

2. The notice shall be sent certified mail, return receipt requested or personal delivery.

3. The following information shall be included in the notice:

a. A description of the livestock performance standard or prohibition that is being violated and the determination that corrective measures do not involve eligible costs under sub. (5) (c).

b. The livestock operation status determination made in accordance with sub. (5) (b).

c. A compliance period for meeting the livestock performance standard or prohibition. The compliance period may not exceed the time limits in par. (b).

d. An explanation of the consequences if the owner or operator fails to comply with provisions of the notice.

(b) *Compliance period.* 1. The compliance period for existing livestock facilities where best management practices and other corrective measures do not involve eligible costs shall be in accordance with the following:

a. The compliance period shall begin on the postmark date of the notice or the date of personal delivery.

b. The length of the compliance period shall be not less than 60 days nor more than 3 years unless otherwise provided for in this subsection.

c. The length of the compliance period may be less than 60 days if the site is an imminent threat to public health, or fish and aquatic life.

2. Once compliance with a livestock performance standard or prohibition is attained, compliance with the performance standard or prohibition shall be maintained by the existing owner or operator and heirs or subsequent owners or operators.

(c) *Combined notices.* The department may meet multiple notification requirements under par. (a), sub. (6) and s. NR 151.09 within any single notice issued to the owner or operator.

(8) **ENFORCEMENT.** (a) *Authority to initiate enforcement.* The department may take action pursuant s. 281.98, Stats., or other appropriate actions, against the owner or operator of a livestock operation for failing to comply with the livestock performance standards and prohibitions in this subchapter or approved variances to the livestock performance standards provided by the department under s. NR 151.097.

(b) *Enforcement following notice and direct enforcement.* The department shall provide notice to the owner or operator of an existing livestock facility in accordance with sub. (6) or (7) prior to the department initiating enforcement action under s. 281.98, Stats., except in cases of repeated mismanagement, such as allowing repeated manure storage overflows, where the department may pursue direct enforcement under s. 281.98, Stats., for the second and subsequent offenses.

**Note:** The implementation and enforcement procedures in this section are limited to actions taken by the department under s. 281.98, Stats., for noncompliance with a livestock performance standard or prohibition. Pursuant to other statutory authority, the department may take direct enforcement action without cost sharing against a livestock producer for willful or intentional acts or other actions by a producer that pose an imminent or immediate threat to human health or the environment.

**Note:** An owner or operator of a new livestock facility is required to meet the livestock performance standards and prohibitions at the time the new facility is created. This requirement shall be met regardless of cost sharing.

(9) **NOTIFICATION TO MUNICIPALITIES.** The department shall notify the appropriate municipality, including a county land conservation committee, prior to taking any of the following actions under this subsection:

(a) Contacting an owner or operator to investigate compliance with livestock performance standards and prohibitions.

(b) Issuing a notice under sub. (6) or (7) to an owner or operator.

(c) Taking enforcement action under s. 281.98, Stats., against an owner or operator for failing to comply with a livestock performance standard or prohibition in this subchapter.

(d) Notification is not required if the site is an imminent threat to public health or fish and aquatic life.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. (1) (intro.), (5) (b) 2. c., 5., (c) 3., (d) 2. a., c., (6) (b) 2. b., (7) (b) 1. b., (8) (b), r. (6) (a) 3. h., (7) (a) 3. e. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.096 Local livestock operation ordinances and regulations.** (1) **LOCAL REGULATIONS THAT EXCEED STATE STANDARDS; APPROVAL REQUIRED.** (a) Except as provided in par. (b), a local governmental unit may not enact a livestock operation ordinance or regulation for water quality protection that exceeds the performance standards or prohibitions in ss. NR 151.05 to 151.08 or the related conservation practices or technical standards in ch. ATPCP 50, unless the local governmental unit obtains approval from the department under sub. (2), or receives approval from DATCP pursuant to s. ATPCP 50.60.

(b) Paragraph (a) does not apply to any of the following:

1. Local ordinances or regulations that address cropping practices that are not directly related to the livestock operation.

2. Local ordinances or regulations enacted prior to October 1, 2002.

**Note:** See s. 92.15, Stats. A person adversely affected by a local livestock regulation may oppose its adoption at the local level. The person may also challenge a local regulation in court if the person believes that the local governmental unit has violated sub. (1) or s. 92.15, Stats. A local governmental unit is responsible for analyzing the legal adequacy of its regulations, and may exercise its own judgment in deciding whether to seek state approval under this section.

**Note:** Subsection (1) does not limit or expand the application of s. 92.15, Stats., to ordinances or regulations enacted prior to October 1, 2002.

(2) **DEPARTMENT APPROVAL.** (a) To obtain department approval under sub. (1) for an existing or proposed regulation, the head of the local governmental unit or the chair of the local governmental unit's governing board shall do all of the following:

1. Submit a copy of the livestock operation ordinance or regulation or portion thereof to the department and to the department of agriculture, trade and consumer protection.

2. Identify the provisions of the regulation for which the local governmental unit seeks approval.

3. Submit supporting documentation explaining why the specific regulatory provisions that exceed the performance standards, prohibitions, conservation practices or technical standards are needed to achieve water quality standards, and why compliance cannot be achieved with a less restrictive standard.

(b) The department shall notify the local governmental unit in writing within 90 calendar days after the department receives the ordinance or regulation as to whether the ordinance or regulation, or portion thereof is approved or denied and shall state the reasons for its decision. Before the department makes its decision, the department shall solicit a recommendation from DATCP. If the department finds the regulatory provisions are needed to achieve water quality standards, the department may approve the ordinance or regulation or portion thereof.

(3) **LOCAL PERMITS.** Local permits or permit conditions are not subject to the review and approval procedures in this section unless the permit conditions are codified in a local ordinance or regulation.

**Note:** A local permit requirement does not, in and of itself, violate sub. (1), but permit conditions codified in a local ordinance or regulation must comply with sub. (1). If a local governmental unit routinely requires permit holders to comply with uncoded water quality protection standards that exceed state standards, those uncoded requirements may be subject to court challenge for noncompliance with s. 92.15, Stats., and sub. (1) as *de facto* regulatory enactments. A local governmental unit may forestall a legal challenge by codifying standard permit conditions and obtaining any necessary state approval under this section. The department will review codified regulations, but will not review individual permits or uncoded permit conditions under sub. (2).

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02.

**NR 151.097 Variances.** (1) The department may grant a variance to the performance standards, technical standards or other non-statutory requirements in this subchapter.

(2) The department may not grant a variance solely on the basis of economic hardship.

(3) The department may grant a variance only if all of the following conditions are met:

(a) Compliance with the performance standard or technical standard is not feasible due to site conditions. This condition does not apply to research activities conducted as part of a planned agricultural research and farming curriculum.

(b) The landowner or operator will implement best management practices or other corrective measures that ensure a level of pollution control that will achieve a level of water quality protection comparable to that afforded by the performance standards in this subchapter.

(c) The conditions for which the variance is requested are not created by the landowner or operator or their agents or assigns. This condition does not apply to research activities conducted as part of a planned agricultural research and farming curriculum.

(4) The department shall use the following process when administering a variance request:

(a) The landowner or operator shall submit the variance request to the department or governmental unit, including a county land conservation committee within 60 days of receiving the notice.

(b) The governmental unit shall forward any variances that it receives to the department. The department may consider a recommendation from the governmental unit concerning acceptance of the variance request.

(c) The department shall make its determination based on the factors in sub. (3).

(d) The department shall notify the landowner or operator and the governmental unit of its determination. If the variance is



granted, the department or governmental unit shall send to the landowner or operator an amended notice.

(e) The period of time required to make a ruling on a variance request does not extend the compliance periods allowed under ss. NR 151.09 and 151.095.

**Note:** The department may consider decisions made by a governmental unit, in accordance with local ordinance provisions, when making its determination whether to accept or deny the variance.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02.

### Subchapter III — Non-Agricultural Performance Standards

**NR 151.10 Purpose.** This subchapter establishes performance standards, as authorized by s. 281.16 (2) (a), Stats., for non-agricultural facilities and practices that cause or may cause nonpoint runoff pollution. These performance standards are intended to limit nonpoint runoff pollution in order to achieve water quality standards. Design guidance and the process for developing technical standards to implement this section are set forth in subch. V.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02.

**NR 151.105 Construction site performance standard for non-permitted sites. (1) APPLICABILITY.** Except as provided under sub. (2), this section applies to all of the following:

(a) A construction site that consists of land disturbing construction activity of less than one acre.

**Note:** Land disturbing construction sites of less than one acre are not regulated under subch. III of ch. NR 216 unless designated by the department under s. NR 216.51 (3).

(b) Construction projects that are exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under 40 CFR 122, for land disturbing construction activity.

**(2) EXEMPTIONS.** This section does not apply to the following:

(a) One- and two- family dwellings regulated by the department of commerce pursuant to s. 101.653, Stats.

(b) Agricultural facilities and practices.

(c) Silviculture activities.

**(3) RESPONSIBLE PARTY.** The landowner of the construction site or other person contracted or obligated by other agreement with the landowner to implement and maintain construction site BMPs is the responsible party and shall comply with this section.

**(4) REQUIREMENTS.** Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

(a) The deposition of soil from being tracked onto streets by vehicles.

(b) The discharge of sediment from disturbed areas into on-site storm water inlets.

(c) The discharge of sediment from disturbed areas into adjacent waters of the state.

(d) The discharge of sediment from drainage ways that flow off the site.

(e) The discharge of sediment by dewatering activities.

(f) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.

(g) The transport by runoff into waters of the state of chemicals, cement and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

**Note:** In accordance with subch. V, the department has developed technical standards to help meet the construction site performance standards. These technical standards are available on the department web page at: <http://dnr.wi.gov/runoff/storm-water/techstds.htm>.

**(5) LOCATION.** BMPs shall be located so that treatment occurs before runoff enters waters of the state.

**(6) IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:

(a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.

(b) Erosion and sediment control practices shall be maintained until final stabilization.

(c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

(d) Temporary stabilization activity shall commence when land disturbing construction activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

(e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

### NR 151.11 Construction site performance standard for sites of one acre or more. (1) DETERMINATION OF SOIL LOSS.

In this section, soil loss is calculated using the appropriate rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

**Note:** The universal soil loss equation and its successors, revised universal soil loss equation and revised universal soil loss equation 2, utilize an R factor which has been developed to estimate soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single-storm erosion.

**(2) APPLICABILITY.** This section applies to any construction site that consists of one acre or more of land disturbing construction activity.

(a) Subsections (3), (4), (5), (6), and (7) apply to all of the following:

1. Construction sites for which the department received a notice of intent in accordance with subch. III of ch. NR 216 before January 1, 2011.

2. Construction sites for which the department of commerce received a notice of intent in accordance with ch. SPS 360 before January 1, 2011.

3. Construction sites for which a bid has been advertised or construction contract signed for which no bid was advertised, before January 1, 2011.

(b) Subsections (3) (a) to (d), (4), (5), (6m), (7), and (8) apply to all of the following:

1. Construction sites for which the department received a notice of intent in accordance with subch. III of ch. NR 216 on or after January 1, 2011.

2. Construction sites for which a bid has been advertised or construction contract signed for which no bid was advertised, on or after January 1, 2011.

**(3) EXEMPTIONS.** This section does not apply to the following:

(a) Construction projects that are exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under 40 CFR 122, for land disturbing construction activity.

(b) Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads within a residential or industrial development.

**Note:** Transportation facility performance standards are given in subch. IV.

(c) Nonpoint discharges from agricultural facilities and practices.

**Note:** This exemption is for nonpoint discharges from agricultural facilities and practices, such as cropping and pasturing. Subchapter III of ch. NR 216 also exempts nonpoint discharges, but regulates point source discharges of storm water, such as the construction of barns, manure storage facilities, sand settling lanes, and barnyard runoff control systems. Under s. NR 216.42 (2), such construction sites are subject to the construction performance standards of this section.



(d) Nonpoint discharges from silviculture activities.

(e) Routine maintenance for project sites that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

**(4) RESPONSIBLE PARTY.** The landowner or other person performing services to meet the performance standards of this subchapter, through a contract or other agreement with the landowner, is the responsible party and shall comply with this section.

**(5) PLAN.** The responsible party under sub. (4) shall develop and implement a written plan for each construction site. The plan shall incorporate the applicable requirements of this section.

**Note:** The written plan may be that specified within s. NR 216.46, the erosion control portion of a construction plan or other plan.

**(6) PRE-JANUARY 1, 2011 REQUIREMENTS.** The plan required under sub. (5) shall include the following:

(a) Best management practices that, by design, achieve, to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls, until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

**Note:** Soil loss prediction tools that estimate the sediment load leaving the construction site under varying land and management conditions, or methodology identified in subch. V., may be used to calculate sediment reduction.

(b) Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and site-specific explanation why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

(c) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

1. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
2. Prevent the discharge of sediment as part of site de-watering.
3. Protect separate storm drain inlet structures from receiving sediment.

(d) The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period to prevent their transport by runoff into waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

**(6m) POST-JANUARY 1, 2011 REQUIREMENTS.** The plan required under sub. (5) shall meet all of the following:

(a) *Erosion and sediment control practices.* Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

1. The deposition of soil from being tracked onto streets by vehicles.
2. The discharge of sediment from disturbed areas into on-site storm water inlets.
3. The discharge of sediment from disturbed areas into adjacent waters of the state.
4. The discharge of sediment from drainage ways that flow off the site.
5. The discharge of sediment by dewatering activities.

6. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.

7. The discharge of sediment from erosive flows at outlets and in downstream channels.

8. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.

9. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

**Note:** Wastewaters, such as from concrete truck washout, needs to be properly managed to limit the discharge of pollutants to waters of the state. A separate permit may be needed from the department where a wastewater discharge has the potential to adversely impact waters of the state. The appropriate department wastewater specialist should be contacted to determine if wastewater permit coverage is needed where wastewater will be discharged to waters of the state.

(b) *Sediment performance standards.* In addition to the erosion and sediment control practices under par. (a), the following erosion and sediment control practices shall be employed:

1. For construction sites for which the department received a notice of intent for the construction project in accordance with subch. III of ch. NR 216, within 2 years after January 1, 2011, BMPs that, by design, achieve a reduction of 80 percent, or to the maximum extent practicable, of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls, until the construction site has undergone final stabilization.

2. For construction sites for which the department received a notice of intent for the construction project in accordance with subch. III of ch. NR 216, 2 years or more after January 1, 2011, BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.

3. The department may not require any person to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. The department may give credit toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.

4. Notwithstanding subd. 1. or 2., if BMPs cannot be designed and implemented to meet the sediment performance standard, the plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

**Note:** Soil loss prediction tools such as revised universal soil loss equation 2 that estimate the sediment load leaving the construction site under varying land and management conditions, or methodology identified in subch. V, may be used to calculate sediment reduction.

**Note:** In accordance with subch. V, the department has developed technical standards to help meet the construction site performance standards. These technical standards are available on the department web page at: <http://dnr.wi.gov/runoff/storm-water/techstds.htm>.

(c) *Preventive measures.* The plan shall incorporate all of the following:

1. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
2. Minimization of soil compaction and preservation of topsoil.
3. Minimization of land disturbing construction activity on slopes of 20% or more.
4. Development of spill prevention and response procedures.

**(7) LOCATION.** BMPs shall be located so that treatment occurs before runoff enters waters of the state.

**Note:** While regional treatment facilities are appropriate for control of post-construction pollutants they should not be used for construction site sediment removal.

**(8) IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:

(a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the plan developed under sub. (5).

(b) Erosion and sediment control practices shall be maintained until final stabilization.

(c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

(d) Temporary stabilization activity shall commence when land disturbing construction activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

(e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. (title), (1), (2), (4), (5), (6) (title), (7), cr. (6m), (8) Register December 2010 No. 660, eff. 1-1-11; correction in (2) (a) 2, made under s. 13.93 (4) (b) 7., Stats., Register February 2012 No. 674.

**NR 151.12 Post-construction performance standard for new development and redevelopment. (1) GENERAL.** In this section:

(a) “Post-construction site” means a construction site subject to regulation under this subchapter, after construction is completed and final stabilization has occurred.

(b) Average annual rainfall is determined by the following years and locations: Madison, 1981 (Mar. 12–Dec. 2); Green Bay, 1969 (Mar. 29–Nov. 25); Milwaukee, 1969 (Mar. 28–Dec. 6); Minneapolis, 1959 (Mar. 13–Nov. 4); Duluth, 1975 (Mar. 24–Nov. 19). Of the 5 locations listed, the location closest to a project site best represents the average annual rainfall for that site.

**(2) APPLICABILITY.** This section applies to a post-construction site that is or was subject to the construction performance standards of s. NR 151.11, except any of the following:

(a) A post-construction site where the department has received a notice of intent for the construction project, in accordance with subch. III of ch. NR 216, within 2 years after October 1, 2002.

(b) A post-construction site where the department of commerce has received a notice of intent, in accordance with s. Comm 61.115, within 2 years after October 1, 2002.

**Note:** Section Comm 61.115 was repealed effective 4-1-07.

(bm) A post-construction site for which the department received a notice of intent for the construction project, in accordance with subch. III of ch. NR 216, on or after January 1, 2011. Post-construction sites for which the department received a notice of intent for the construction project, in accordance with subch. III of ch. NR 216, on or after January 1, 2011, shall meet the performance standards of ss. NR 151.122 to 151.128.

(c) A redevelopment post-construction site with no increase in exposed parking lots or roads.

(d) A post-construction site with less than 10% connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.

**Note:** Projects that consist of only the construction of bicycle paths or pedestrian trails generally meet this exception as these facilities have minimal connected imperviousness.

(e) Agricultural facilities and practices.

(f) An action for which a final environmental impact statement was approved before October 1, 2002.

(g) An action for which a finding of no significant impact is made under ch. NR 150 before October 1, 2002.

(h) Underground utility construction such as water, sewer and fiberoptic lines, but not including the construction of any above ground structures associated with utility construction.

**(3) RESPONSIBLE PARTY.** The landowner of the post-construction site or other person contracted or obligated by other agreement to implement and maintain post-construction storm water BMPs shall comply with this section.

**(4) STORM WATER MANAGEMENT PLAN.** A written storm water management plan shall be developed and implemented for each post-construction site and shall incorporate the requirements of this subsection.

**Note:** Examples of storm water management plans that may be used to comply with this section may be that specified within s. NR 216.47 or the municipal storm water management program specified within s. NR 216.07 (1) to (6).

**(5) REQUIREMENTS.** The plan required under sub. (4) shall include:

(a) *Total suspended solids.* Best management practices shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:

1. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subdivision.

2. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.

3. For in-fill development under 5 acres that occurs within 10 years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.

4. For in-fill development that occurs 10 or more years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subdivision.

5. Notwithstanding subs. 1. to 4., if the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

**Note:** Pollutant loading models such as SLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids. Information on how to access SLAMM and P8 is available at: <http://dnr.wi.gov/runoff/models/slam.htm> or contact the storm water coordinator in the runoff management section of the bureau of watershed management at (608) 267-7694.

(b) *Peak discharge.* 1. By design, BMPs shall be employed to maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditions for the 2-year, 24-hour design storm applicable to the post-construction site. Pre-development conditions shall assume “good hydrologic conditions” for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of “hydrologic soil group” and “runoff curve number” are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 2 shall be used.

**Table 2 – Maximum Pre-Development Runoff Curve Numbers for Cropland Areas**

Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	56	70	79	83

**Note:** The curve numbers in Table 2 represent mid-range values for soils under a good hydrologic condition where conservation practices are used and are selected to be protective of the resource waters.

2. This paragraph does not apply to:

a. A post-construction site where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving water by more than 0.01 of a foot for the 2-year, 24-hour storm event.

**Note:** Hydraulic models such as HEC-RAS or another methodology may be used to determine the change in surface water elevations.

b. A redevelopment post-construction site.

c. An in-fill development area less than 5 acres.

**Note:** The intent of par. (b) is to minimize streambank erosion under bank full conditions.

(c) *Infiltration.* BMPs shall be designed, installed and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in subds. 5. to 8.:

1. For residential developments one of the following shall be met:

a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.

b. Infiltrate 25% of the post-development runoff volume from the 2-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.

2. For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:

a. For this subdivision only, the "project site" means the roof-top and parking lot areas.

b. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.

c. Infiltrate 10% of the post-development runoff volume from the 2-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.

3. Pre-development condition shall be the same as specified in par. (b).

**Note:** A model that calculates runoff volume, such as SLAMM, P8 or an equivalent methodology may be used. Information on how to access SLAMM and P8 is available at: <http://dnr.wi.gov/runoff/models/slammm.htm> or contact the storm water coordinator in the runoff management section of the bureau of watershed management at (608) 267-7694.

4. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd.

8. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

**Note:** To achieve the infiltration requirement for the parking lots or roads, maximum extent practicable should not be interpreted to require significant topography changes that create an excessive financial burden. To minimize potential groundwater impacts it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollutant source areas such as parking lots.

5. Exclusions. The runoff from the following areas are prohibited from meeting the requirements of this paragraph:

a. Areas associated with tier 1 industrial facilities identified in s. NR 216.21 (2) (a), including storage, loading, rooftop and parking.

b. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21 (2) (b).

**Note:** Runoff from tier 2 parking and rooftop areas may be infiltrated but may require pretreatment.

c. Fueling and vehicle maintenance areas.

d. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.

e. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subd. 5. e. does not prohibit infiltration of roof runoff.

f. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.

g. Areas within 400 feet of a community water system well as specified in s. NR 811.16 (4) or within 100 feet of a private well as specified in s. NR 812.08 (4) for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.

h. Areas where contaminants of concern, as defined in s. NR 720.03 (2), are present in the soil through which infiltration will occur.

i. Any area where the soil does not exhibit one of the following characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10% fines or greater. This subd. 5. i. does not apply where the soil medium within the infiltration system provides an equivalent level of protection. Subdivision 5. i. does not prohibit infiltration of roof runoff.

**Note:** The areas listed in subd. 5. are prohibited from infiltrating runoff due to the potential for groundwater contamination.

6. Exemptions. The following are not required to meet the requirements of this paragraph:

a. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the bottom of the infiltration system.

b. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.

c. Redevelopment post-construction sites.

d. In-fill development areas less than 5 acres.

e. Infiltration areas during periods when the soil on the site is frozen.

f. Roads in commercial, industrial and institutional land uses, and arterial residential roads.

7. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.

8. a. Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140.



However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

b. Notwithstanding subd. 8. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(d) *Protective areas.* 1. In this paragraph, “protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

a. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s. NR 103.04, 75 feet.

b. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

c. For lakes, 50 feet.

d. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineation shall be made in accordance with s. NR 103.08 (1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

e. For less susceptible wetlands, 10% of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

f. In subd. 1. a., d. and e., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.

g. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

2. This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.

3. The following requirements shall be met:

a. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.

**Note:** It is recommended that seeding of non-aggressive vegetative cover be used in the protective areas. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover may be measured using the line transect method described in the university of

Wisconsin extension publication number A3533, titled “Estimating Residue Using the Line Transect Method”.

c. Best management practices such as filter strips, swales or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.

**Note:** Other regulations, such as ch. 30, Stats., and chs. NR 103, 115, 116 and 117 and their associated review and approval process may apply in the protective area.

4. Exemptions. This paragraph does not apply to:

a. Redevelopment post-construction sites.

b. In-fill development areas less than 5 acres.

c. Structures that cross or access surface waters such as boat landings, bridges and culverts.

d. Structures constructed in accordance with s. 59.692 (1v), Stats.

e. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

**Note:** A vegetated protective area to filter runoff pollutants from post-construction sites described in subd. 4. e. is not necessary since runoff is not entering the surface water at that location. Other practices necessary to meet the requirements of this section, such as a swale or basin, will need to be designed and implemented to reduce runoff pollutants prior to runoff entering a surface water of the state.

(e) *Fueling and vehicle maintenance areas.* Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

**Note:** A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

(f) *Location.* To comply with the standards required under this subsection, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003.

(g) *Timing.* The BMPs that are required under this subsection shall be installed before the construction site has undergone final stabilization.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: cr. (2) (bm) Register December 2010 No. 660, eff. 1-1-11.

**NR 151.121 Post-construction performance standards.** (1) **GENERAL.** In ss. NR 151.121 to 151.128, “post-construction site” means a construction site subject to regulation under this subchapter, after construction is completed and final stabilization has occurred.

(2) **APPLICABILITY.** Sections NR 151.121 to 151.128 apply to a post-construction site that is or was subject to the construction performance standards of s. NR 151.11, except any of the following:

(a) A post-construction site with less than 10 percent connected imperviousness, based on the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre. However, the exemption of this paragraph does not include exemption from the protective area standard of s. NR 151.125.

(b) Agricultural facilities and practices.

**Note:** This exemption includes both point and nonpoint discharges from agricultural facilities and practices. Therefore, post-construction structures such as barns, manure storage facilities, sand settling lanes, and barnyard runoff control systems are subject to subch. II and are not subject, under s. NR 216.47 (1), to the post-construction performance standards of this subchapter.

(c) Underground utility construction, but not including the construction of any above ground structures associated with utility construction.

(3) **RESPONSIBLE PARTY.** The landowner of the post-construction site or other person contracted or obligated by other agreement with the landowner to implement and maintain post-construction storm water BMPs is the responsible party and shall comply with ss. NR 151.121 to 151.128.

(4) **STORM WATER MANAGEMENT PLAN.** A written storm water management plan shall be developed and implemented for each



post-construction site and shall incorporate the requirements of ss. NR 151.122 to 151.128.

**Note:** Examples of storm water management plans that may be used to comply with ss. NR 151.122 to 151.128 may include those specified in s. NR 216.47 or the municipal storm water management program specified in s. NR 216.07 (5).

**(5) MAINTENANCE OF EFFORT.** For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of this chapter in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of ss. NR 151.122 to 151.125, whichever are more stringent.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.122 Total suspended solids performance standard.** **(1) REQUIREMENT.** BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site. BMPs shall be designed in accordance with Table 1., or to the maximum extent practicable as provided in sub. (3). The design shall be based on an average annual rainfall, as compared to no runoff management controls.

Table 1. TSS Reduction Standards	
Development Type	TSS Reduction
New Development	80 percent
In-fill $\geq$ 5 acres	80 percent
In-fill < 5 acres on or after October 1, 2012	80 percent
Redevelopment	40 percent of load from parking areas and roads
In-fill < 5 acres and before October 1, 2012	40 percent

**(2) REDEVELOPMENT.** Except as provided in s. NR 151.121 (5), the redevelopment total suspended solids reduction standard of Table 1., applies to redevelopment.

**(3) MAXIMUM EXTENT PRACTICABLE.** If the design cannot meet a total suspended solids reduction performance standard of sub. (1), Table 1., the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable. The department may not require any person to exceed the applicable total suspended solids reduction performance standard to meet the requirements of maximum extent practicable.

**Note:** Pollutant loading models such as DETPOND, SLAMM, P8, or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids. Information on how to access these models is available at: <http://dnr.wi.gov/runoff/models/index.htm> or by contacting the department's storm water management program at (608) 267-7694. Use the most recent version of the model and the rainfall files and other parameter files identified for Wisconsin users unless directed otherwise by the regulatory authority.

**(4) OFF-SITE DRAINAGE.** When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.123 Peak discharge performance standard.** **(1) REQUIREMENT.** By design, BMPs shall be employed to maintain or reduce the 1-year, 24-hour and the 2-year, 24-hour post-construction peak runoff discharge rates to the 1-year, 24-hour and the 2-year, 24-hour pre-development peak runoff discharge rates respectively, or to the maximum extent practicable. The runoff curve numbers in Table 2. shall be used to represent the actual pre-development condition.

Table 2. Maximum Pre-Development Runoff Curve Numbers				
Runoff Curve Number	Hydrologic Soil Group			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

**Note:** Where the pre-development condition is a combination of woodland, grassland, or cropland, the runoff curve number should be pro-rated by area.

**(2) EXEMPTIONS.** This section does not apply to the following:

(a) A post-construction site where the discharge is directly into a lake over 5,000 acres or a stream or river segment draining more than 500 square miles.

(b) Except as provided under s. NR 151.121 (5), a redevelopment post-construction site.

(c) An in-fill development area of less than 5 acres.

**Note:** The intent of s. NR 151.123 is to minimize streambank and shoreline erosion under bank-full conditions.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.124 Infiltration performance standard.** **(1) REQUIREMENT.** BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:

(a) *Low imperviousness.* For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the post-construction site is required as an effective infiltration area.

(b) *Moderate imperviousness.* For development with more than 40 percent and up to 80 percent connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

(c) *High imperviousness.* For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

**Note:** A histogram showing the relationship between connected imperviousness and land use is available at <http://dnr.wi.gov/runoff/stormwater/muni.htm>.

**(2) PRE-DEVELOPMENT.** Pre-development condition shall be the same as specified in s. NR 151.123 (1), Table 2.

**Note:** A model that calculates runoff volume, such as SLAMM, P8, or an equivalent methodology may be used. For performance standards based on an average annual rainfall, specific rainfall files for five geographic locations around the state may be used. Information on how to access SLAMM and P8 and the rainfall files is available at: <http://dnr.wi.gov/runoff/models/index.htm> or by contacting the department's storm water management program at (608) 267-7694. Use the most recent version of the model and the parameter files for Wisconsin users unless directed otherwise by the regulatory authority.

**(3) SOURCE AREAS.** (a) *Prohibitions.* Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this section unless demonstrated to meet the conditions of sub. (6):

1. Areas associated with a tier 1 industrial facility identified in s. NR 216.21 (2) (a), including storage, loading, and parking.

Rooftops may be infiltrated with the concurrence of the regulatory authority.

2. Storage and loading areas of a tier 2 industrial facility identified in s. NR 216.21 (2) (b).

**Note:** Runoff from the employee and guest parking and rooftop areas of a tier 2 facility may be infiltrated but runoff from the parking area may require pretreatment.

3. Fueling and vehicle maintenance areas. Rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.

(b) *Exemptions.* Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas is optional:

1. Parking areas and access roads less than 5,000 square feet for commercial development.

2. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the prohibitions under par. (a).

3. Except as provided under s. NR 151.121 (5), redevelopment post-construction sites.

4. In-fill development areas less than 5 acres.

5. Roads in commercial, industrial, and institutional land uses, and arterial residential roads.

(4) *LOCATION OF PRACTICES.* (a) *Prohibitions.* Infiltration practices may not be located in the following areas:

1. Areas within 1,000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.

2. Areas within 400 feet of a community water system well as specified in s. NR 811.16 (4) or within the separation distances listed in s. NR 812.08 for any private well or non-community well for runoff infiltrated from commercial, including multi-family residential, industrial, and institutional land uses or regional devices for one- and two-family residential development.

3. Areas where contaminants of concern, as defined in s. NR 720.03 (2), are present in the soil through which infiltration will occur.

(b) *Separation distances.* 1. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 3:

Source Area	Separation Distance	Soil Characteristics
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	
All Other Impervious Source Areas	3 feet or more	Filtering Layer

2. Notwithstanding par. (b), applicable requirements for injection wells classified under ch. NR 815 shall be followed.

(c) *Infiltration rate exemptions.* Infiltration practices located in the following areas may be credited toward meeting the requirement under the following conditions, but the decision to infiltrate under these conditions is optional:

1. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.

2. Where the least permeable soil horizon to 5 feet below the proposed bottom of the infiltration system using the U.S. department of agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.

(5) *ALTERNATE USE.* Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by this section.

(6) *GROUNDWATER STANDARDS.* (a) Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

(b) Notwithstanding par. (a), the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(7) *PRETREATMENT.* Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial, and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with sub. (6). Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, biofiltration, filtration, swales, or filter strips.

(8) *MAXIMUM EXTENT PRACTICABLE.* Where the conditions of subs. (3) and (4) limit or restrict the use of infiltration practices, the performance standard of s. NR 151.124 shall be met to the maximum extent practicable.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.125 Protective areas performance standard.** (1) *DEFINITION.* In this section, "protective area" means

an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so that runoff cannot enter the enclosure at this location.

(a) For outstanding resource waters and exceptional resource waters, 75 feet.

(b) For perennial and intermittent streams identified on a U.S. geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

(c) For lakes, 50 feet.

(d) For wetlands not subject to par. (e) or (f), 50 feet.

(e) For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.

**Note:** Information on wetland types can be found at: <http://dnr.wi.gov/wetlands/types.html>. Additional information on wetland types including ephemeral ponds is given under wetland community at: <http://dnr.wi.gov/org/land/er/communities/>.

(f) For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include: degraded wetlands dominated by

invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.

(g) In pars. (d) to (f), determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.

(h) Wetland boundary delineation shall be made in accordance with s. NR 103.08 (1m). This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

(i) For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

(j) Notwithstanding pars. (a) to (i), the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.

**Note:** A stream or lake is not eligible for a lower protective area width even if contiguous to a less susceptible wetland.

**(2) APPLICABILITY.** This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to sub. (4).

**(3) REQUIREMENTS.** The following requirements shall be met:

(a) Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the storm water management plan shall contain a written, site-specific explanation.

(b) Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained where no impervious surface is present. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.

**Note:** It is recommended that seeding of non-invasive vegetative cover be used in the protective areas. Some invasive plants are listed in ch. NR 40. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover may be measured using the line transect method described in the University of Wisconsin extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".

(c) Best management practices such as filter strips, swales, or wet detention ponds, that are designed to control pollutants from non-point sources, may be located in the protective area.

**Note:** Other laws, such as ch. 30, Stats., and chs. NR 103, 115, 116, and 117 and their associated review and approval processes may apply in the protective area.

**(4) EXEMPTIONS.** This section does not apply to any of the following:

(a) Except as provided under s. NR 151.121 (5), redevelopment post-construction sites.

(b) In-fill development areas less than 5 acres.

(c) Structures that cross or access surface waters such as boat landings, bridges, and culverts.

(d) Structures constructed in accordance with s. 59.692 (1v), Stats.

(e) Areas of post-construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the requirements of ss. NR 151.122 to 151.123, except to the extent that vegetative ground cover is necessary to maintain bank stability.

**Note:** A vegetated protective area to filter runoff pollutants from post-construction sites described in par. (e) is not necessary since the runoff at that location is treated prior to entering the surface water. Other practices necessary to meet the

requirements of this section, such as a swale or pond, will need to be designed and implemented to reduce runoff pollutants prior to runoff entering a surface water of the state. The requirements of ch. NR 103 still apply and should be considered before runoff is diverted to or from a wetland.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.126 Fueling and vehicle maintenance areas performance standard.** Fueling and vehicle maintenance areas shall have BMPs designed, installed, and maintained to reduce petroleum within runoff, so that the runoff that enters waters of the state contains no visible petroleum sheen, or to the maximum extent practicable.

**Note:** A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.127 Location.** To comply with the standards required under ss. NR 151.122 to 151.124, BMPs may be located on-site or off-site as part of a regional storm water device, practice, or system, but shall be installed in accordance with s. NR 151.003.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.128 Timing.** The BMPs that are required under ss. NR 151.122 to 151.126 shall be installed before the construction site has undergone final stabilization.

**Note:** In accordance with subch. V, the department has developed technical standards to help meet the post-construction performance standards. These technical standards are available on the department web page at: <http://dnr.wi.gov/runoff/stormwater/techstds.htm>.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.13 Developed urban area performance standard for municipalities.** (1) INCORPORATED MUNICIPALITIES. (a) *Applicability.* This subsection applies to any incorporated municipality with an average density of 1,000 people per square mile or greater, based on the latest decennial census made by the U.S. census, as well as any commercial and industrial areas contiguous to these areas.

**Note:** The municipality has primary responsibility for complying with this subsection. However, the public is expected to follow municipal ordinance requirements and requests to carry out activities such as: proper curbside placement of leaves for collection, relocating vehicles for street sweeping, and utilizing proper disposal methods for oils and other chemicals.

(b) *Requirements.* For areas identified under par. (a), all of the following shall be implemented:

1. A public information and education program, utilizing materials identified by the department, promoting beneficial on-site reuse of leaves and grass clippings and proper use of turf and garden fertilizers and pesticides, proper management of pet wastes, and prevention of dumping oil and other chemicals in storm sewers.

2. A municipal program, as appropriate, for the management of leaf and grass clippings, including public education about this program.

3. The application of turf and garden fertilizers on five acres or more of municipally controlled properties shall be done in accordance with a site specific nutrient application schedule based on appropriate soil tests. The nutrient application schedule shall be designed to maintain the optimal health of the turf or garden vegetation.

**Note:** In accordance with subch. V, the department has developed a technical standard to help meet the nutrient management performance standard. The technical standard is available on the department web page at: <http://dnr.wi.gov/runoff/stormwater/techstds.htm>.

4. Detection and elimination of illicit discharges to storm sewers.

**(2) PERMITTED MUNICIPALITIES.** (a) *Applicability.* This subsection applies to municipalities that are subject to the municipal storm water permit requirements of subch. I of ch. NR 216.

(b) *Program.* A municipality shall develop and implement a storm water management program, including the adoption and administration of any necessary ordinance, to meet the following requirements:



1. 'Stage 1 requirements.' The municipalities identified under par. (a) shall implement all of the following within 2 years of receiving permit coverage under subch. I of ch. NR 216:

- a. All of the requirements contained in sub. (1) (b).
- b. A 20 percent reduction in total suspended solids, or to the maximum extent practicable, as compared to no controls, for runoff from existing development that enters waters of the state.

2. 'Stage 2 requirements.' The municipalities identified under par. (a) shall implement one of the following for runoff from existing development that enters waters of the state, as compared to no controls:

- a. A 40 percent reduction in total suspended solids, by March 31, 2013, if permit coverage was received under subch. I of ch. NR 216 on or before January 1, 2010.

- b. A 40 percent reduction in total suspended solids within 7 years of the date of receiving permit coverage for municipalities identified under par. (a), if permit coverage was received under subch. I of ch. NR 216 after January 1, 2010.

- c. If a municipality identified under par. (a) has determined that it will not achieve a 40 percent reduction in total suspended solids in runoff that enters waters of the state as compared to no controls, by the applicable date of subd. 2. a. or b., then 6 months before the applicable date the municipality shall submit a report to the department describing the control measures that it has implemented and shall submit a long term storm water management plan in accordance with subd. 3.

3. 'Long term storm water management plan.' Plans shall include all of the following elements:

- a. A baseline report showing the existing development boundary, drainage basins, and land uses; and applicable model results to justify the loading for total suspended solids for no controls and controls implemented by the applicable date in subd. 2. to meet the requirements in subd. 2. Modeling shall conform to that described in subd. 5.

- b. Any agreements with an adjacent municipality, or with municipalities within a 10 digit hydrologic unit code level, to implement the 40 percent total suspended solids reduction on a regional basis per s. NR 216.07 (6).

- c. Any long-term maintenance agreements with non-publicly owned control measures where credit for the total suspended solids reduction is included in the analysis.

- d. An implementation plan and its associated timetable for control measures identified in a cost-effectiveness analysis consistent with subd. 3. f., that would result in achieving a 40 percent total suspended solids reduction within a period not to exceed 10 years from the applicable compliance date in subd. 2 unless documentation in subd. 3. e. is provided. The plan shall include modeling data consistent with subd. 5.

- e. If a municipality has determined that it cannot achieve 40 percent total suspended solids reduction within 10 years from the applicable compliance date in subd. 2, including the use of agreements with other municipalities and long term maintenance agreements for non-public control measures, the plan shall demonstrate why 40 percent reduction cannot be achieved. A long term storm water management plan under this subdivision shall describe the control measures identified in a cost-effectiveness analysis consistent with subd. 3. f. that the municipality will implement within 10 years and document the amount of reduction that will be achieved. The plan shall also include an implementation plan and associated timetable for control measures identified in a cost-effectiveness analysis consistent with subd. 3. f. that would result in achieving a 40 percent total suspended solids reduction. The plan shall include modeling data consistent with subd. 5.

- f. A cost-effectiveness analysis shall include a systematic comparison of alternatives to meet the 40 percent total suspended solids reduction based on the cost per pound of pollutant removed.

This analysis shall take into account anticipated redevelopment or reconstruction projects and the cost to retrofit the site versus the cost to install practices during redevelopment or reconstruction. The analysis shall consider the cost to ensure long term maintenance of non-publicly owned control practices for which the municipality is taking credit as well as publicly owned control practices, the source of funding for installation and maintenance of control measures, and competing interests for that funding source. The municipality may include an analysis of affordability in the cost-effectiveness analysis. The analysis shall consider the feasibility and commensurate increase in cost of installing a control measure where there are competing issues such as human safety and welfare, endangered and threatened resources, historic properties, and geographic features.

4. 'Long term plan review.' a. The department shall review the plan required under subd. 3. and provide comments within 6 months of receipt. The municipality shall modify the plan to correct any deficiencies identified by the department.

- b. The department shall accept documentation that demonstrates to the department's satisfaction that the 40 percent reduction will be met by the applicable compliance date of subd. 2.

- c. The department shall review plans where the 40 percent reduction can be made within the schedule proposed by the municipality under subd. 3. d. However, the department upon review of the plan may request a modification of the schedule or control measures if the department determines that control measures can achieve the 40 percent reduction within a shorter timeframe. The department shall include in the acceptance of the plan the provision in subd. 4. e.

- d. The department shall review a plan with an extended timetable beyond 10 years from the applicable compliance date in subd. 2. where the municipality has demonstrated to the department's satisfaction that the 40 percent reduction cannot be made within 10 years from the applicable compliance date in subd. 2. However, upon review of the plan the department may request a modification of the schedule or control measures if the department determines that control measures can achieve the 40 percent reduction within a shorter timeframe than proposed by the municipality. The department shall include in the acceptance of the plan the provision in subd. 4. e.

- e. The municipality shall submit a report on an initial schedule set by the department and every 5 years thereafter documenting progress and reviewing whether changes in land use, local regulations, control technology or other factors have affected the use or timing of control measures meeting the performance standard of subd. 2. The report shall include a modeling analysis documenting progress and recommending any changes in control measures or timetables for achieving a 40 percent reduction.

5. 'Model requirements.' Evidence of meeting the performance standard of subd. 2. shall be based on the use of a model or an equivalent methodology approved by the department. Acceptable models and model versions include SLAMM version 9.2 and P8 version 3.4 or subsequent versions of those models. Earlier versions of SLAMM are acceptable when the municipality is not taking any credit for street cleaning.

**Note:** Information on how to access SLAMM and P8 and the relevant parameter files are available at: <http://dnr.wi.gov/runoff/models/index.htm> or by contacting the department's storm water management program at (608) 267-7694.

**Note:** It is expected that a municipality will be able to achieve the 40 percent reduction with a combination of practices including the use of high efficiency street cleaning, structural BMP retrofit practices, structural BMP redevelopment or reconstruction practices, and entering into maintenance agreements for BMPs on privately owned lands, such as shopping centers, to receive credit.

- (c) *Location.* To comply with the standards required under this subsection, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003.

- (d) *Exemption.* The requirements of par. (b) 1. and 2. do not apply to areas subject to a permit issued under subch. II of ch. NR 216.



(e) *Calculation of reduction.* The department shall recognize total suspended solids reduction not otherwise accounted for in computer models for the implementation of programs, ordinances and other institutional controls that result in scientifically supported reductions of total suspended solids and are developed as a technical standard under s. NR 151.31.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: r. and recr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.14 Turf and garden nutrient management performance standard.** (1) **APPLICABILITY.** This section applies when all of the following conditions are met:

- (a) The property is not subject to s. NR 151.13 (1) (b) 3.
- (b) Nutrients are applied to over 5 acres of turf or garden.
- (c) The property discharges runoff to waters of the state.
- (d) The property is not an agricultural facility or practice.
- (e) The property does not conduct silviculture activity.

(2) **RESPONSIBLE PARTY.** The landowner is the responsible party and shall comply with this section.

(3) **REQUIREMENTS.** The application of turf and garden fertilizers on these properties shall be done in accordance with site-specific nutrient application schedules based on appropriate soil tests. The nutrient application schedule shall be designed to maintain the optimal health of the turf or garden vegetation.

**Note:** In accordance with subch. V, the department has developed a technical standard to help meet the nutrient management performance standard. The technical standard is available on the department web page at: <http://dnr.wi.gov/runoff/storm-water/techstds.htm>.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: r. and recr. Register December 2010 No. 660, eff. 1-1-11.

#### NR 151.15 Implementation and enforcement.

(1) **IMPLEMENTATION.** This subchapter shall be implemented as follows:

(a) *Construction sites and post-construction sites.* The provisions of ss. NR 151.11, 151.12, and 151.121 to 151.128 shall be implemented through subch. III of ch. NR 216.

**Note:** The department may develop and revise available model ordinances to reflect the applicability and performance standards in ss. NR 151.11, 151.12, and 151.121 to 151.128. These model ordinances are in ch. NR 152. Municipalities are encouraged to adopt the requirements of ss. NR 151.11, 151.12, and 151.121 to 151.128, into local ordinances. Incentives are included in the grant programs identified in chs. NR 153 and 155, for municipalities that adopt the performance standards into their ordinances, provide an information and education program, and track and report their enforcement activity.

(b) *Developed urban areas.* The provisions of s. NR 151.13 (2) shall be implemented through subch. I of ch. NR 216.

(2) **ENFORCEMENT.** The department shall enforce this subchapter under s. 281.98, Stats., except for those requirements that are implemented through ch. NR 216, which shall be enforced under ss. 283.89 and 283.91, Stats.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. (1), (2) Register December 2010 No. 660, eff. 1-1-11; correction to numbering of (2) made under s. 13.92 (4) (b) 1., Stats., Register December 2010 No. 660.

### Subchapter IV — Transportation Facility Performance Standards

**NR 151.20 Purpose and applicability.** (1) This subchapter establishes performance standards, as authorized by s. 281.16 (2) (a), Stats., for transportation facilities that cause or may cause runoff pollution. These performance standards are intended to limit runoff pollution in order to achieve water quality standards. Design guidance and the process for developing technical standards to implement this subchapter are set forth in subch. V.

(2) Transportation facilities that are directed and supervised by the department of transportation and that are regulated by an administrative rule administered by the department of transportation, where the department determines in writing that the rule meets or exceeds the performance standards of this subchapter and is implemented in accordance with the administrative rule

provisions, shall be deemed to meet the requirements of the portions of this subchapter determined by the department.

(3) In s. NR 151.23, soil loss is calculated using the appropriate rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

**Note:** The universal soil loss equation and its successors, revised universal soil loss equation and revised universal soil loss equation 2, utilize an R factor which has been developed to estimate soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single-storm erosion.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. Register December 2010 No. 660, eff. 1-1-11.

#### NR 151.21 Definitions. In this subchapter:

(1m) “Average annual rainfall” means a typical calendar year of precipitation as determined by the department for users of models such as SLAMM, P8, or equivalent methodology. The average annual rainfall is chosen from a department publication for the location closest to the municipality.

**Note:** Information on how to access SLAMM and P8 and the average annual rainfall files for five locations in the state, as published periodically by the department, is available at: <http://dnr.wi.gov/runoff/models/index.htm> or by contacting the storm water management program at (608) 267-7694.

(2) “Borrow site” means an area outside of a project site from which stone, soil, sand or gravel is excavated for use at the project site, except the term does not include commercial pits.

(3) “Highway” has the meaning given in s. 340.01 (22), Stats.

(4) “Material disposal site” means an area outside of a project site, which is used, for the lawful disposal of surplus materials or materials unsuitable for use within the project site that is under the direct control of the contractor. A municipally owned landfill or private landfill that is not managed by the contractor is excluded from this definition.

(5) “Minor reconstruction” means either of the following:

(a) For transportation facility construction sites where, before January 1, 2011, a bid was advertised, a construction contract was signed and no bid was advertised, or a notice of intent was received by the department in accordance with subch. III of ch. NR 216, reconstruction that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed widening.

(b) For transportation facility construction sites where, on or after January 1, 2011, a bid is advertised, a construction contract signed where no bid is advertised or a notice of intent was received by the department in accordance with subch. III of ch. NR 216, reconstruction that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed widening, and that does not include replacement of a vegetated drainage system with a non-vegetated drainage system except where necessary to convey runoff under a highway or private road or driveway.

(6) “Prime contractor” means a person authorized or awarded a contract to perform, directly or using subcontractors, all the work of a project directed and supervised by the transportation facility authority.

(7) “Private road or driveway” has the meaning given in s. 340.01 (46), Stats.

(8) “Public-use airport” has the meaning given it in 49 USC 47102(21).

(9) “Public mass transit facility” means any area of land or water which is used, or intended for use, by bus or light rail, and any appurtenant areas which are used, or intended for use, by bus or light rail, including buildings or other facilities or rights-of-way, either publicly or privately owned, that provide the public with general or special service on a regular and continuing basis.

(10) “Public trail” means a “state ice age trail area” designated under s. 23.17 (2), Stats., a state trail under s. 23.175 (2) (a), Stats., an “all-terrain vehicle trail” under s. 23.33 (1) (d), Stats., an “off-the-road motorcycle trail” under s. 23.33 (9) (b) 4., Stats., a “rec-

reational trail” under s. 30.40 (12m), Stats., a “walkway” under s. 30.40 (22), Stats., a state trail under s. 84.06 (11), Stats., a “bike-way” under s. 84.60 (1) (a), Stats., a “snowmobile trail” under s. 350.01 (17), Stats., a “public snowmobile corridor” under s. 350.12 (3j) (a) 1., Stats., or any other trail open to the public as a matter of right.

(11) “Railroad” means any area of land or water which is used, or intended for use, in operating a railroad as defined in s. 85.01 (5), Stats., and any appurtenant areas which are used, or intended for use, for railroad buildings or other railroad facilities or rights-of-way, together with all railroad buildings and facilities located thereon.

(12) “Reconditioning” has the meaning given in s. 84.013 (1) (b), Stats.

(13) “Reconstruction” has the meaning given in s. 84.013 (1) (c), Stats.

(14) “Resurfacing” has the meaning given in s. 84.013 (1) (d), Stats.

(15) “Transportation facility authority” means any person or entity that is authorized to approve work on a transportation facility by contract, permit or with its own forces or by force account. A permit or approval granted by the department pursuant to ch. 283, Stats., does not qualify as authorization needed to meet this definition.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: r. (1), cr. (1m), am. (5), (8) Register December 2010 No. 660, eff. 1-1-11.

**NR 151.22 Responsible party.** (1) **TRANSPORTATION FACILITY AUTHORITY.** (a) The transportation facility authority shall develop a design plan to meet the performance standards of this subchapter for land disturbing construction activity at the transportation facility construction site.

**Note:** This design plan may be the erosion control plan specified in s. Trans 401.07.

(b) The transportation facility authority, in consultation with the department, shall approve the implementation plan submitted under sub. (2) (a). The transportation facility authority shall incorporate the implementation plan into the contract for project construction.

(c) The transportation facility authority shall administer and enforce the implementation plan submitted by the prime contractor under sub. (2) (a) under the contract for project construction. The transportation facility authority shall ensure that the prime contractor follows and maintains the implementation plan under par. (b). If the prime contractor does not follow the implementation plan incorporated into the contract for project construction, the transportation facility authority shall control erosion and sediment at the construction site consistent with the design plan prepared under par. (a) or implementation plan prepared under sub. (2) (a).

(d) Before accepting the completed project, the transportation facility authority shall verify in writing that the prime contractor has satisfactorily completed the implementation plan pursuant to sub. (2) (b). The transportation authority shall submit the written verification to the prime contractor and to the authority in charge of maintenance of the transportation facility. Upon written verification by the transportation facility authority under this paragraph, the prime contractor is released from the responsibility under this subchapter, except for any responsibility for defective work or materials, damages by its own operations, or as may be otherwise required in the project construction contract.

(2) **PRIME CONTRACTOR.** (a) The prime contractor shall develop and submit to the transportation facility authority an implementation plan that identifies applicable BMPs and contains a schedule for implementing the BMPs in accordance with design plan to meet the performance standards under sub. (1) (a). The implementation plan shall identify an array of BMPs that may be employed to meet the performance standards. The implementation plan shall also address the design and implementation of

BMPs required in ss. NR 151.23 and 151.24 for land disturbing construction activity within borrow sites and material disposal sites that are related to the construction project.

**Note:** This implementation plan may be the erosion control implementation plan specified in s. Trans 401.08.

(b) The prime contractor shall implement the implementation plan as required by the contract for project construction prepared pursuant to sub. (1) (b).

(c) A transportation authority that carries out the construction activity with its own employees and resources shall comply with the prime contractor requirements contained in this subsection, including preparing and carrying out an implementation plan.

(3) **SINGLE PLAN.** For transportation projects that are not administered under ch. Trans 401, the requirements of this subchapter may be developed under one plan instead of 2 separate plans as described under subs. (1) (a) and (2) (a). A plan created under this subsection shall contain both the design components required under sub. (1) (a) and the implementation components required under sub. (2) (a).

**Note:** This single plan may be the erosion control plan specified in s. NR 216.46.

(4) **MAINTENANCE AUTHORITY.** Upon execution of the written verification prepared under sub. (1) (d) by the transportation facility authority, the authority in charge of maintenance of the transportation facility shall maintain the BMPs to meet the performance standards of this subchapter. However, BMPs no longer necessary for erosion and sediment control shall be removed by the maintenance authority.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. (1) (a) Register December 2010 No. 660, eff. 1-1-11.

**NR 151.225 Construction site performance standard for non-permitted sites and routine maintenance.**

(1) **APPLICABILITY.** This section applies to any transportation facility construction site that consists of land disturbing construction activity for any of the following:

(a) Transportation facility construction sites of less than one acre.

(b) Routine maintenance if performed for storm water conveyance system cleaning for sites that consist of less than 5 acres.

**Note:** Land disturbing construction sites of less than one acre and routine maintenance if performed for storm water conveyance system cleaning for sites that consist of less than 5 acres of land disturbance are not regulated under subch. III of ch. NR 216 unless designated by the department under s. NR 216.51 (3).

(c) Transportation facility construction projects that are exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under 40 CFR 122, for land disturbing construction activity.

(2) **RESPONSIBLE PARTY.** The transportation facility authority or other person contracted or obligated by other agreement with the transportation facility authority to implement and maintain construction site BMPs is the responsible party and shall comply with this section.

(3) **REQUIREMENTS.** Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

(a) The deposition of soil from being tracked onto streets by vehicles.

(b) The discharge of sediment from disturbed areas into on-site storm water inlets.

(c) The discharge of sediment from disturbed areas into adjacent waters of the state.

(d) The discharge of sediment from drainage ways that flow off the site.

(e) The discharge of sediment by dewatering activities.

(f) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.

(g) The transport by runoff into waters of the state of chemicals, cement and other building compounds and materials on the

construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

**Note:** In accordance with subch. V, the department has developed technical standards to help meet the construction site performance standards. These technical standards are available on the department web page at: <http://dnr.wi.gov/runoff/storm-water/techstds.htm>.

(4) **LOCATION.** BMPs shall be located so that treatment occurs before runoff enters waters of the state.

(5) **IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:

(a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.

(b) Erosion and sediment control practices shall be maintained until final stabilization.

(c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

(d) Temporary stabilization activity shall commence when land disturbing construction activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

(e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

**History:** CR 09-112; cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.23 Construction site performance standard for sites of one acre or more.** (1) **APPLICABILITY.** This section applies to any transportation facility construction site that consists of one acre or more of land disturbing construction activity.

(a) Subsections (2), (3), (4), and (5) apply to all of the following:

1. Transportation facility construction sites for which the department received a notice of intent in accordance with subch. III of ch. NR 216 before January 1, 2011.

2. Transportation facility construction sites for which a bid has been advertised or construction contract signed for which no bid was advertised, before January 1, 2011.

(b) Subsections (2) (a), (b), and (cm), (3), (4m), (5), and (6) apply to all of the following:

1. Transportation facility construction sites for which the department received a notice of intent in accordance with subch. III of ch. NR 216 on or after January 1, 2011.

2. Transportation facility construction sites for which a bid has been advertised or construction contract signed for which no bid was advertised, on or after January 1, 2011.

(2) **EXEMPTION.** This section does not apply to the following:

(a) Transportation facility construction projects that are exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under 40 CFR 122, for land disturbing construction activity.

(b) Transportation facility construction projects that are part of a larger common plan of development, such as a residential or industrial development, and are in compliance with the performance standards of subch. III.

(c) Routine maintenance for transportation facilities that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

**Note:** Construction projects such as installations of utilities within a transportation right-of-way that are not directed and supervised by the Department of Transportation are subject to the performance standards of subch. III and are not subject to this subchapter.

(cm) Routine maintenance if performed for storm water conveyance system cleaning for sites that consist of less than 5 acres of land disturbance.

(3) **PLAN.** (a) The responsible party under s. NR 151.22 shall develop and implement a written design plan for each construction site. The plan shall incorporate the applicable requirements of this section.

**Note:** The design plan may be the erosion control plan specified in s. NR 216.46 or the design plan in s. NR 151.22 (1) (a).

(b) The plan required under s. NR 151.22 (2) (a) or (3) shall be properly installed to implement the plan under s. NR 151.22 (1) (a).

(4) **PRE-JANUARY 1, 2011 REQUIREMENTS.** The design plan required under sub. (3) shall include the following:

(a) BMPs that, by design, achieve, to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls, as specified in s. NR 151.22 (1) (a) or (3), until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination and shall be installed according to any associated implementation plan to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

**Note:** Soil loss prediction tools that estimate the sediment load leaving the construction site under varying land and management conditions, or methodology identified in subch. V., may be used to calculate sediment reduction.

(b) Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the sediment load by 80%, based on an average annual rainfall, the design plan shall include a written and site-specific explanation why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

(c) Where appropriate, the design plan shall include sediment controls to do all of the following to the maximum extent practicable:

1. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.

2. Prevent the discharge of sediment as part of site de-watering.

3. Protect the separate storm drain inlet structure from receiving sediment.

(d) The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period to prevent their transport by runoff into waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

(4m) **POST-JANUARY 1, 2011 REQUIREMENTS.** The design plan required under sub. (3) shall meet all of the following:

(a) *Erosion and sediment control practices.* Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

1. The deposition of soil from being tracked onto streets by vehicles.

2. The discharge of sediment from disturbed areas into on-site storm water inlets.

3. The discharge of sediment from disturbed areas into adjacent waters of the state.

4. The discharge of sediment from drainage ways that flow off the site.

5. The discharge of sediment by dewatering activities.

6. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.



7. The discharge of sediment from erosive flows at outlets and in downstream channels.

8. The transport by runoff into waters of the state of chemicals, cement and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.

9. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

**Note:** Wastewaters, such as from concrete truck washout, need to be properly managed to limit the discharge of pollutants to waters of the state. A separate permit may be needed from the department where a wastewater discharge has the potential to adversely impact waters of the state. The appropriate department regional wastewater specialist should be contacted to determine if wastewater permit coverage is needed where wastewater will be discharged to waters of the state.

(b) *Sediment performance standards.* In addition to the erosion and sediment control practices under par. (a), the following erosion and sediment control practices shall be employed:

1. For transportation facility construction sites for which the department received a notice of intent for the construction project in accordance with subch. III of ch. NR 216 within 2 years after January 1, 2011, BMPs that, by design, achieve a reduction of 80 percent, or to the maximum extent practicable, of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls, until the construction site has undergone final stabilization.

2. For transportation facility construction sites for which the department received a notice of intent for the construction project in accordance with subch. III of ch. NR 216, 2 years or more after January 1, 2011, BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.

3. The department may not require any person to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. The department shall give credit toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.

4. Notwithstanding subd. 1. or 2., if BMPs cannot be designed and implemented to meet the sediment performance standard, the plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

**Note:** Soil loss prediction tools such as revised universal soil loss equation 2 that estimate the sediment load leaving the construction site under varying land and management conditions, or methodology identified in subch. V, may be used to calculate sediment reduction.

**Note:** In accordance with subch. V, the department has developed technical standards to help meet the construction site performance standards. These technical standards are available on the department web page at: <http://dnr.wi.gov/runoff/storm-water/techstds.htm>.

(c) *Preventive measures.* The plan shall incorporate all of the following:

1. Maintenance of existing vegetation, especially adjacent to surface waters, whenever possible.

2. Minimization of soil compaction and preservation of topsoil.

3. Minimization of land disturbing construction activity on slopes of 20% or more.

4. Development of spill prevention and response procedures.

(5) **LOCATION.** BMPs shall be located so that treatment occurs before runoff enters waters of the state.

**Note:** While regional treatment facilities are appropriate for control of post-construction pollutants, they should not be used for construction site sediment removal.

(6) **IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:

(a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin and in accordance with the plan developed under sub. (3).

(b) Erosion and sediment control practices shall be maintained until final stabilization.

(c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

(d) Temporary stabilization activity shall commence when land disturbing construction activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.

(e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. (title), (1), (3) (a), (4) (title), (5), cr. (2) (cm), (4m), (6) Register December 2010 No. 660, eff. 1-1-11.

**NR 151.24 Post-construction performance standard.** (1) **APPLICABILITY.** This section applies to a transportation facility that is or was subject to the construction performance standards of s. NR 151.23, except any of the following:

(a) A transportation construction site where the department has received a notice of intent for the construction project in accordance with subch. III of ch. NR 216 within 2 years after October 1, 2002.

(b) A transportation facility construction site that has undergone final stabilization within 2 years after October 1, 2002.

(bm) A transportation post-construction site for which the department received a notice of intent for the construction project in accordance with subch. III of ch. NR 216 on or after January 1, 2011. Transportation post-construction sites for which the department received a notice of intent for the construction project, in accordance with subch. III of ch. NR 216, on or after January 1, 2011, shall meet the performance standards of ss. NR 151.242 to 151.249.

(c) Reconditioning or resurfacing of a highway.

(d) Minor reconstruction of a highway. Notwithstanding the exemption under this paragraph, the protective areas requirements in sub. (6) apply to minor reconstruction of a highway.

(e) A redevelopment transportation facility with no increase in exposed parking lots or roads.

(f) A transportation facility with less than 10% connected imperviousness based on complete development of the transportation facility, provided the cumulative area of all parking lots and rooftops is less than one acre.

**Note:** Projects that consist of only the construction of bicycle paths or pedestrian trails generally meet this exception as these facilities have minimal connected imperviousness.

(g) Protective area requirements under sub. (6) do apply to actions described in s. NR 151.20 (2).

(h) A transportation facility, the construction of which involves activity described in s. NR 151.23 (1) (a) 2. but that has less than one acre of land disturbing construction activity.

(i) Transportation facility construction projects that are part of a larger common plan of development, such as a residential or industrial development, that are in compliance with the performance standards of subch. III.

(j) Routine maintenance for transportation facilities if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

(2) **PLAN.** A written plan shall be developed and implemented for each transportation facility and shall incorporate the requirements of subs. (3) to (10).

**Note:** Examples of plans that may be used to comply with this section may be that specified within s. NR 216.47, the municipal storm water management program spec-



ified within s. NR 216.07 (1) to (6) or the erosion control plan specified in s. Trans 401.07.

**(3) TOTAL SUSPENDED SOLIDS.** Best management practices shall be designed, installed and maintained to control total suspended solids carried in runoff from the transportation facility as follows:

(a) For new transportation facilities, by design, reduce to the maximum extent practicable, the suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this paragraph.

(b) For highway reconstruction and non-highway redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this paragraph.

(c) Notwithstanding pars. (a) and (b), if the design cannot achieve the applicable total suspended solids reduction specified, the design plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

**Note:** Pollutant loading models such as SLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids. Information on how to access SLAMM and P8 is available at: <http://dnr.wi.gov/runoff/models/slammm.htm> or contact the storm water coordinator in the runoff management section of the bureau of watershed management at (608) 267-7694.

**(4) PEAK DISCHARGE.** (a) By design, BMPs shall be employed to maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development site conditions for the 2-year, 24-hour design storm applicable to the transportation facility. Pre-development conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 2 of subch. III shall be used.

**Note:** The curve numbers in Table 2 represent mid-range values for soils under a good hydrologic condition where conservation practices are used and are selected to be protective of the resource waters.

(b) This subsection does not apply to:

1. A transportation facility where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving surface water by more than 0.01 of a foot for the 2-year, 24-hour storm event.

**Note:** Hydraulic models such as HEC-RAS or another methodology may be used to determine the change in surface water elevations.

2. A highway reconstruction site.

3. A transportation facility that is part of a redevelopment project.

**Note:** The intent of sub. (4) is to minimize streambank erosion under bank full conditions.

**(5) INFILTRATION.** (a) Except as provided in pars. (d) to (g), BMPs shall be designed, installed and maintained to infiltrate runoff to the maximum extent practicable in accordance with one of the following:

1. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.

2. Infiltrate 10% of the post-development runoff volume from the 2-year, 24-hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve

numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.

(b) Pre-development condition shall be the same as specified in sub. (4) (a).

**Note:** A model that calculates runoff volume, such as SLAMM, P8 or an equivalent methodology may be used. Information on how to access SLAMM and P8 is available at: <http://dnr.wi.gov/runoff/models/slammm.htm> or contact the storm water coordinator in the runoff management section of the bureau of watershed management at (608) 267-7694.

(c) Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with par. (g). Pretreatment may include, but is not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.

**Note:** To minimize potential groundwater impacts it is desirable to infiltrate the cleanest runoff. To achieve this, a design may propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollutant source areas such as parking lots.

(d) The following are prohibited from meeting the requirements of this subsection:

1. Areas associated with tier 1 industrial facilities identified in s. NR 216.21 (2) (a), including storage, loading, rooftop and parking.

2. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21 (2) (b).

**Note:** Runoff from tier 2 parking and rooftop areas may be infiltrated but may require pretreatment.

3. Fueling and vehicle maintenance areas.

4. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.

5. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.

6. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.

7. Areas within 400 feet of a community water system well as specified in s. NR 811.16 (4) or within 100 feet of a private well as specified in s. NR 812.08 (4) for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.

8. Areas where contaminants of concern, as defined in s. NR 720.03 (2), are present in the soil through which infiltration will occur.

9. Any area where the soil does not exhibit one of the following characteristics between the bottom of the infiltration system and seasonal high groundwater and top of bedrock:

a. At least a 3-foot soil layer with 20% fines or greater.

b. At least a 5-foot soil layer with 10% fines or greater.

c. Where the soil medium within the infiltration system does not provide an equivalent level of protection.

**Note:** The areas listed in par. (d) are prohibited from infiltrating runoff due to the potential for groundwater contamination.

(e) Transportation facilities located in the following areas and otherwise subject to the requirements of this subchapter are not required to meet the requirements of this subsection:

1. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the bottom of the infiltration system.

2. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.

3. Redevelopment post-construction sites.

4. In-fill development areas less than 5 acres.

5. Infiltration areas during periods when the soil on the site is frozen.

6. Roads in commercial, industrial and institutional land uses, and arterial residential roads.

7. Highways.

(f) Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this subsection.

(g) 1. Infiltration systems designed in accordance with this subsection shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, then the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

2. Notwithstanding subd. 1., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

**(6) PROTECTIVE AREAS.** (a) In this subsection, “protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

1. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s. NR 103.04, 75 feet.

2. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

3. For lakes, 50 feet.

4. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineation shall be made in accordance with s. NR 103.08 (1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

5. For less susceptible wetlands, 10% of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

6. In subds. 1., 4. and 5., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.

7. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

(b) 1. Beginning with land acquired within a protective area for a transportation facility on or after October 1, 2002, no impervious surface of a transportation facility may be constructed within a protective area, unless the transportation facility authority determines, in consultation with the department, that there is no practical alternative. If there is no practical alternative to locating a transportation facility within a protective area, the transportation facility may be constructed in the protective area only

to the extent the transportation facility authority, in consultation with the department, determines is reasonably necessary, and the transportation facility authority shall state in the design plan prepared pursuant to s. NR 151.22 (1) (a), why it is necessary to construct the transportation facility within a protective area.

2. If a transportation facility is constructed within a protective area, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained in the area that is the width of the protective area, or the greatest width practical, and throughout the length of the protective area in which the transportation facility is located. The adequate sod or self-sustaining vegetative cover required under this paragraph shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.

**Note:** It is recommended that seeding of non-aggressive vegetative cover be used in the protective areas. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover may be measured using the line transect method described in the university of Wisconsin-extension publication number A3533, titled “Estimating Residue Using the Line Transect Method”.

3. Best management practices such as filter strips, swales or wet detention basins, that are designed to control pollutants from nonpoint sources may be located in the protective width area.

**Note:** Other regulations, such as ch. 30, Stats., and chs. NR 103, 115, 116 and 117 and their associated review and approval process may apply in the protective area.

4. This subsection does not apply to:

a. Non-highway transportation redevelopment sites.

b. Transportation facilities that cross or access surface waters, such as boat landings, bridges and culverts.

c. Structures constructed in accordance with s. 59.692 (1v), Stats.

d. Transportation facilities from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

**Note:** A vegetated protective area to filter runoff pollutants from transportation facilities described in subd. 4. d. is not necessary since runoff is not entering the surface water at that location. Other practices necessary to meet requirements of this section, such as a swale or basin, will need to be designed and implemented to reduce runoff pollutants prior to runoff entering a surface water of the state.

**(7) FUELING AND VEHICLE MAINTENANCE AREAS.** Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.

**Note:** A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

**(8) LOCATION.** To comply with the standards required under this section, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003.

**(9) TIMING.** The BMPs required under this section shall be installed before the construction site has undergone final stabilization.

**(10) SWALE TREATMENT.** (a) *Applicability.* Except as provided in par. (b), transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:

1. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

**Note:** It is preferred that tall and dense vegetation be maintained within the swale due to its greater effectiveness at enhancing runoff pollutant removal.

2. Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a 2-year, 24-hour design storm or a 2-year design storm with a duration equal to the

time of concentration as appropriate. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, the flow velocity shall be reduced to the maximum extent practicable.

**Note:** Check dams may be included in the swale design to slow runoff flows and improve pollutant removal. Transportation facilities with continuous features such as curb and gutter, sidewalks or parking lanes do not comply with the design requirements of this subsection. However, a limited amount of structural measures such as curb and gutter may be allowed as necessary to account for other concerns such as human safety or resource protection.

(b) **Exemptions.** 1. Notwithstanding par. (a), the department may, consistent with water quality standards, require other provisions of this section, in addition to swale treatment, be met on a transportation facility with an average daily traffic rate greater than 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:

- a. An outstanding resource water.
- b. An exceptional resource water.
- c. Waters listed in section 303 (d) of the federal clean water act that are identified as impaired in whole or in part, due to non-point source impacts.
- d. Waters where targeted performance standards are developed pursuant to s. NR 151.004.

2. The transportation facility authority shall contact the department's regional storm water staff or the department's liaison to the department of transportation to determine if additional BMPs beyond a water quality swale are needed under this paragraph.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: cr. (1) (bm) Register December 2010 No. 660, eff. 1-1-11.

**NR 151.241 Post-construction performance standards.** (1) **GENERAL.** In ss. NR 151.241 to 151.249, "post-construction site" means a construction site subject to regulation under this subchapter, after construction is completed and final stabilization has occurred.

(2) **APPLICABILITY.** Sections NR 151.241 to 151.249 apply to a transportation facility post-construction site that is or was subject to the construction performance standards of s. NR 151.23, except any of the following:

(a) A transportation facility post-construction site with less than 10 percent connected imperviousness, based on the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre. However, the exemption of this paragraph does not include exemption from the protective area standard of s. NR 151.245.

(b) Reconditioning or resurfacing of a highway.

(c) Minor reconstruction of a highway. Notwithstanding the exemption under this paragraph, the protective area performance standard in s. NR 151.245 applies to minor reconstruction of a highway.

(d) Transportation facility construction projects that are part of a larger common plan of development, such as a residential or industrial development, that are in compliance with the performance standards of subch. III.

(e) Routine maintenance if performed for storm water conveyance system cleaning.

(3) **STORM WATER MANAGEMENT PLAN.** The responsible party under s. NR 151.22 shall develop and implement a written storm water management plan for each transportation facility post-construction site and shall incorporate the requirements of ss. NR 151.242 to 151.249.

**Note:** Examples of storm water management plans that may be used to comply with ss. NR 151.242 to 151.249 may include those specified in s. NR 216.47 or s. TRANS 401.106 (2).

(4) **MAINTENANCE OF EFFORT.** For non-highway transportation facility redevelopment sites and highway reconstruction where the redevelopment or reconstruction will be replacing older

development or highway that was subject to post-construction performance standards of this chapter in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or highway, or meet the redevelopment or highway reconstruction standards of ss. NR 151.242 to 151.249, whichever are more stringent.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.242 Total suspended solids performance standard.** (1) **REQUIREMENT.** Except as provided in sub. (3), BMPs shall be designed, installed, and maintained to control total suspended solids carried in runoff from the transportation facility post-construction site. BMPs shall be designed in accordance with Table 1., or to the maximum extent practicable as provided in sub. (4). The design shall be based on an average annual rainfall, as compared to no runoff management controls.

Table 1. TSS Reduction Standards	
Development Type	TSS Reduction
New Transportation Facilities	80 percent
Highway Reconstruction	40 percent
Non-highway transportation facility redevelopment	40 percent of load from parking areas and roads

(2) **NON-HIGHWAY TRANSPORTATION REDEVELOPMENT AND HIGHWAY RECONSTRUCTION.** Except as provided in s. NR 151.241 (4), the non-highway transportation facility redevelopment and highway reconstruction total suspended solids reduction standard of Table 1. applies to non-highway transportation facility redevelopment and highway reconstruction.

(3) **DELAYED IMPLEMENTATION.** For municipalities that are regulated under subch. I of ch. NR 216 and for transportation facilities under the jurisdiction of the department of transportation for maintenance purposes that are located within municipalities regulated under subch. I of ch. NR 216, the highway reconstruction total suspended solids performance standard first applies January 1, 2017.

(4) **MAXIMUM EXTENT PRACTICABLE.** If the design cannot meet a total suspended solids reduction performance standard of sub. (1), Table 1., the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable. The department may not require any person to exceed the applicable total suspended solids reduction performance standard to meet the requirements of maximum extent practicable.

**Note:** Pollutant loading models such as DETPOND, SLAMM, P8, or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids. Information on how to access these models is available at: <http://dnr.wi.gov/runoff/models/index.htm> or by contacting the department's storm water management program at (608) 267-7694. Use the most recent version of the model and the rainfall files and other parameter files identified for Wisconsin users unless directed otherwise by the regulatory authority.

(5) **OFF-SITE DRAINAGE.** When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.243 Peak discharge performance standard.** (1) **REQUIREMENT.** By design, BMPs shall be employed to maintain or reduce the 1-year, 24-hour and the 2-year, 24-hour post-construction peak runoff discharge rates to the 1-year, 24-hour and the 2-year, 24-hour pre-development peak runoff discharge rates respectively, or to the maximum extent practicable. The runoff curve numbers in Table 2. shall be used to represent the actual pre-development condition.



Table 2. Maximum Pre-Development Runoff Curve Numbers				
Runoff Curve Number	Hydrologic Soil Group			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

**Note:** Where the pre-development condition is a combination of woodland, grassland, or cropland, the runoff curve number should be pro-rated by area.

**(2) EXEMPTIONS.** This section does not apply to the following:

(a) A transportation facility post-construction site where the discharge is directly into a lake over 5,000 acres or a stream or river segment draining more than 500 square miles.

(b) Except as provided under s. NR 151.241 (4), a transportation facility that is part of a redevelopment project.

(c) Except as provided under s. NR 151.241 (4), a highway reconstruction site.

**Note:** The intent of s. NR 151.243 is to minimize streambank and shoreline erosion under bank-full conditions.

**History:** CR 09-112; cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.244 Infiltration performance standard.**

**(1) REQUIREMENT.** Except as provided in sub. (2), the requirements are the same as those given in s. NR 151.124.

**(2) EXEMPTIONS.** Except as provided under s. NR 151.241 (4), transportation facility highway reconstruction and new highways are not required to meet the performance standards of this section.

**History:** CR 09-112; cr. Register December 2010 No. 660, eff. 1-1-11; renumbering of (1), (2) made under s. 13.92 (4) (b) 1., Stats., Register December 2010 No. 660.

**NR 151.245 Protective areas performance standard.**

**(1) DEFINITION.** In this section, “protective area” means an area of land that commences at the top of the channel of lakes, streams, and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so that runoff cannot enter the enclosure at this location.

(a) For outstanding resource waters and exceptional resource waters, 75 feet.

(b) For perennial and intermittent streams identified on a U.S. geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

(c) For lakes, 50 feet.

(d) For wetlands not subject to par. (e) or (f), 50 feet.

(e) For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.

**Note:** Information on wetland types can be found at: <http://dnr.wi.gov/wetlands/types.html>. Additional information on wetland types including ephemeral ponds is given under wetland community at: <http://dnr.wi.gov/org/land/er/communities/>.

(f) For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include: degraded wetlands dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.

(g) In pars. (d) to (f), determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.

(h) Wetland boundary delineation shall be made in accordance with s. NR 103.08 (1m). This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for

wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

(i) For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

(j) Notwithstanding pars. (a) to (i), the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.

**Note:** A stream or lake is not eligible for a lower protective area width even if contiguous to a less susceptible wetland.

**(2) APPLICABILITY.** This section applies to transportation facility post-construction sites located within a protective area, except those areas exempted pursuant to sub. (4).

**(3) REQUIREMENTS.** The following requirements shall be met:

(a) No impervious surface of a transportation facility may be constructed within a protective area, unless the transportation facility authority determines, in consultation with the department, that there is no practical alternative. If there is no practical alternative to locating a transportation facility within a protective area, the transportation facility may be constructed in the protective area only to the extent the transportation facility authority, in consultation with the department, determines is reasonably necessary. The transportation facility authority shall state in the design plan prepared pursuant to s. NR 151.241 (3), why it is necessary to construct the transportation facility within a protective area.

(b) Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained where no impervious surface is present. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.

**Note:** It is recommended that seeding of non-invasive vegetative cover be used in the protective areas. Some invasive plants are listed in ch. NR 40. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover may be measured using the line transect method described in the University of Wisconsin extension publication number A3533, titled “Estimating Residue Using the Line Transect Method”.

(c) Best management practices such as filter strips, swales, or wet detention ponds, that are designed to control pollutants from non-point sources, may be located in the protective area.

**Note:** Other laws, such as ch. 30, Stats., and chs. NR 103, 115, 116, and 117 and their associated review and approval processes may apply in the protective area.

**(4) EXEMPTIONS.** This section does not apply to any of the following:

(a) Except as provided under s. NR 151.241 (4), non-highway transportation redevelopment post-construction sites.

(b) Structures that cross or access surface waters such as boat landings, bridges, and culverts.

(c) Structures constructed in accordance with s. 59.692 (1v), Stats.

(d) Transportation facilities from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the requirements of ss. NR 151.242 to 151.243, except to the extent that vegetative ground cover is necessary to maintain bank stability.

**Note:** A vegetated protective area to filter runoff pollutants from transportation facilities described in par. (d) is not necessary since the runoff at that location is treated prior to entering the surface water. Other practices necessary to meet the requirements of this section, such as a swale or pond, will need to be designed and implemented to reduce runoff pollutants prior to runoff entering a surface water of the state. The requirements of ch. NR 103 still apply and should be considered before runoff is diverted to or from a wetland.

**History:** CR 09-112; cr. Register December 2010 No. 660, eff. 1-1-11.



**NR 151.246 Fueling and vehicle maintenance areas performance standard.** Fueling and vehicle maintenance areas shall have BMPs designed, installed, and maintained to reduce petroleum within runoff, so that the runoff that enters waters of the state contains no visible petroleum sheen, or to the maximum extent practicable.

**Note:** A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.247 Location.** To comply with the standards required under ss. NR 151.242 to 151.244, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.248 Timing.** The BMPs that are required under ss. NR 151.242 to 151.246 and 151.249 shall be installed before the construction site has undergone final stabilization.

**Note:** In accordance with subch. V, the department has developed technical standards to help meet the post-construction performance standards. These technical standards are available on the department web page at: <http://dnr.wi.gov/runoff/stormwater/techstds.htm>.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.249 Swale treatment performance standard.** (1) **REQUIREMENT.** Except as provided in sub. (2), transportation facilities that use swales for runoff conveyance and pollutant removal are exempt from the requirements of ss. NR 151.242 to 151.244, if the swales are designed to do all of the following or to the maximum extent practicable:

(a) Swales shall be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.

**Note:** It is preferred that tall and dense vegetation be maintained within the swale due to its greater effectiveness at enhancing runoff pollutant removal.

(b) Swales shall comply with the department technical standard 1005, "Vegetated Infiltration Swale", dated May, 2007, except as otherwise authorized in writing by the department.

**Note:** In accordance with subch. V, the department has developed technical standards to help meet the post-construction performance standards. These technical standards are available on the department web page at: <http://dnr.wi.gov/runoff/stormwater/techstds.htm>.

(2) **OTHER REQUIREMENTS.** (a) Notwithstanding sub. (1), the department may, consistent with water quality standards, require that other requirements, in addition to swale treatment, be met on a transportation facility with an average daily traffic rate greater than 2,500 and where the initial surface water of the state that the runoff directly enters is any of the following:

1. An outstanding resource water.
2. An exceptional resource water.
3. Waters listed in section 303 (d) of the federal clean water act that are identified as impaired in whole or in part, due to non-point source impacts.
4. Waters where targeted performance standards are developed pursuant to s. NR 151.004.

(b) The transportation facility authority shall contact the department's regional storm water staff or the department's liaison to the department of transportation to determine if additional BMPs beyond a water quality swale are needed under this subsection.

**History:** CR 09-112: cr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.25 Developed urban area performance standard for transportation facilities.** (1) **APPLICABILITY.** This section applies to transportation facilities under the jurisdiction of the department of transportation for maintenance purposes that are located within a municipality regulated under subch. I of ch. NR 216.

**Note:** Transportation facilities that are not under the jurisdiction of the department of transportation for maintenance purposes are subject to the performance standards in s. NR 151.13.

(2) **REQUIREMENTS.** (a) Except as provided in par. (c), the department of transportation shall develop and implement a storm water management plan in consultation with the department to control pollutants from transportation facilities described in sub. (1), for runoff from existing transportation facilities that enters waters of the state as compared to no storm water management controls. By design, the plan shall do the following:

1. A 20 percent reduction in total suspended solids or to the maximum extent practicable, beginning not later than a date consistent with the municipality regulated under subch. I of ch. NR 216.

2. A 40 percent reduction in total suspended solids in runoff by March 31, 2013, for transportation facilities within a municipality that received permit coverage under subch. I of ch. NR 216 on or before January 1, 2010.

3. A 40 percent reduction in total suspended solids in runoff within 7 years, for transportation facilities within a municipality receiving permit coverage under subch. I of ch. NR 216 after January 1, 2010.

4. Evidence of meeting the performance standard of this paragraph shall require the use of a model or an equivalent methodology approved by the department. Acceptable models and model versions include SLAMM version 9.2 and P8 version 3.4 or subsequent versions of those models. An earlier version of SLAMM is acceptable if no credit is being taken for street cleaning.

**Note:** Information on how to access SLAMM and P8 and the relevant parameter files is available at: <http://dnr.wi.gov/runoff/models/index.htm> or by contacting the department's storm water management program at (608) 267-7694.

(b) The department of transportation shall inform and educate appropriate department of transportation staff and any transportation facility maintenance authority contracted by the department of transportation to maintain transportation facilities owned by the department of transportation regarding nutrient, pesticide, salt and other deicing material and vehicle maintenance management activities in order to prevent runoff pollution of waters of the state.

(c) If the department of transportation has determined that it will not achieve a 40 percent reduction in total suspended solids in runoff that enters waters of the state as compared to no controls by the applicable date of par. (a) 2. or 3., then 6 months before the applicable date, the department of transportation shall submit a report to the department describing the control measures that it has implemented and shall submit a long term storm water management plan in accordance with s. NR 151.13 (2) (b) 3. The department shall review the plan in accordance with s. NR 151.13 (2) (b) 4.

(d) To comply with the standards required under this subsection, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: r. and recr. Register December 2010 No. 660, eff. 1-1-11.

**NR 151.26 Enforcement.** This subchapter shall be enforced as follows:

(1) If a transportation facility that is exempt from prohibitions, permit or approval requirements by s. 30.2022 (1), Stats., does not comply with the performance standards of this subchapter, the department shall initiate the conflict resolution process specified in the cooperative agreement between the department of transportation and the department established under the interdepartmental liaison procedures under s. 30.2022 (2), Stats.

(2) The department shall enforce this subchapter where applicable for transportation facilities not specified in sub. (1) under s. 281.98, Stats.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; corrections in (1) made under s. 13.93 (2m) (b) 7., Stats., Register July 2004 No. 583; CR 09-112: am. (1) Register December 2010 No. 660, eff. 1-1-11.

## Subchapter V — Technical Standards Development Process for Non-Agricultural Performance Standards

**NR 151.30 Purpose.** This subchapter specifies the process for developing and disseminating technical standards to implement the performance standards in subchs. [III](#) and [IV](#), as authorized by s. [281.16 \(2\) \(b\)](#), Stats., and establishes the procedures that the department shall use to determine if technical standards adequately and effectively implement, as appropriate, the performance standards in subchs. [III](#) and [IV](#). This subchapter applies to technical standards developed or implemented by any agency of the state of Wisconsin.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02.

**NR 151.31 Technical standards development process.** (1) The department shall develop and revise technical standards to implement the performance standards in subchs. [III](#) and [IV](#) through a process outlined as follows:

(a) The department may decide that a new or revised technical standard is necessary to implement a performance standard.

(b) Any person may request the department to develop or revise a technical standard designed to meet a performance standard. The request shall be made in writing to the director of the department's bureau of watershed management and shall include the performance standard for which technical standard development or revision may be needed, and an explanation why a new or revised technical standard is requested.

(c) The department shall evaluate a request submitted pursuant to par. (b), to determine if it is necessary to develop or revise a technical standard to implement a performance standard. If the department determines that a new or revised technical standard is not necessary to implement a performance standard, it shall reply to the requester in writing as to the reasons that a technical standard does not need to be developed or revised.

(d) If the department determines that a new or revised technical standard is necessary to implement a performance standard, it shall:

1. Determine the state agency responsible for the technical standard.

2. If the responsible state agency is not the department, request the responsible state agency to develop or revise a technical standard.

3. If the responsible agency denies the request to develop or revise a technical standard, the department may initiate conflict resolution procedures outlined under any existing memorandum of understanding or agreement between the department and the responsible agency. If no conflict resolution procedures exist, the department may attempt to resolve the disagreement through stepped negotiations between increasing higher levels of management.

(e) The department shall use the following procedures when it acts to develop or revise technical standards to implement the performance standards in subchs. [III](#) and [IV](#).

1. Convene a work group to develop or revise the technical standard that includes agencies and persons with technical expertise and direct policy interest. The work group shall include at least one representative from the agency or person that made an initial request to develop or revise the technical standard.

2. The work group shall publish a class 1 public notice and consider public comments received on the technical standard prior to providing recommendations to the department under subd. 3.

3. The work group shall provide a recommended technical standard to the department within 18 months of its formation unless the director of the bureau of watershed management grants an extension to this deadline.

(f) 1. Notwithstanding other provisions of this section, and acting jointly with the department of transportation and in consultation with other appropriate stakeholders, the department shall:

a. Develop a technical standard that, by design, meets the performance standard established in s. [NR 151.23 \(4\)](#) and (4m). This technical standard shall address slope erosion and channel erosion and identify BMPs that may be used given a variety of site conditions.

b. Annually review this technical standard.

**Note:** This technical standard is sometimes referred to as the standardized erosion control reference matrix for transportation.

2. For transportation facility construction sites, the technical standard developed under this paragraph shall also indicate any conditions under which it may not be used to implement the performance standard established in s. [NR 151.23 \(4\)](#) and (4m).

3. This technical standard and future revisions become effective upon signatures from both secretaries of the department and the department of transportation, or their designees.

(2) (a) Upon receipt of a proposed technical standard or technical standard revision, either developed by the department or a responsible state agency, the department shall determine if the technical standard will effectively achieve or contribute to achievement of the performance standards in subchs. [III](#) and [IV](#). The department shall provide its determination in writing to the responsible state agency that prepared the proposed technical standard.

(b) If the department determines that a proposed technical standard will not adequately or effectively implement a performance standard in subchs. [III](#) and [IV](#), the proposed technical standard may not be used to implement a performance standard in whole or in part.

(c) If the department determines that a proposed technical standard will adequately and effectively implement a performance standard in subchs. [III](#) and [IV](#) in whole or in part, the new or revised technical standard shall be used in lieu of any existing standards to implement the performance standard beginning with plans developed after the date of this determination.

(d) The department may determine a portion of a technical standard is adequate and effective to implement the performance standards under subch. [III](#) or [IV](#).

(3) The department shall accept technical standards and best management practices developed by the department, the department of safety and professional services, the department of transportation or other appropriate state agencies, existing on October 1, 2002, unless the department identifies a technical standard as not adequate or effective to implement a performance standard in subchs. [III](#) and [IV](#) in whole or in part, and informs the responsible state agency of this determination and the basis for it.

(4) Until the processes under subs. (1) and (2) are completed, an existing technical standard identified by the department under sub. (3), or previously accepted by the department as adequate and effective to implement a performance standard under subch. [III](#) or [IV](#) shall be recognized as appropriate for use under this chapter.

(5) The department may identify technical standards that exist or are developed by qualified groups or organizations as adequate and effective to implement the performance standards under subch. [III](#) or [IV](#).

(6) Except as provided in s. [NR 151.26](#), if a technical standard that the department determines is not adequate or effective to implement a performance standard in whole or in part is used to implement a performance standard under subch. [III](#) or [IV](#), the department may initiate enforcement proceedings for failure to meet the performance standard under s. [281.98](#), Stats.

**History:** CR 00-027: cr. Register September 2002 No. 561, eff. 10-1-02; CR 09-112: am. (1) (intro.), 1. a., 2. Register December 2010 No. 660, eff. 1-1-11; correction in (3) made under s. [13.93 \(4\) \(b\) 6.](#), Stats., Register February 2012 No. 674.

**NR 151.32 Dissemination of technical standards.**

**(1)** Technical standards developed or revised under this section may be made available through the responsible state agency's appropriate rules, manuals or guidance in keeping with normal publication schedules. If the responsible state agency does not publish appropriate manuals or guidance, the department shall request the agency provide the department with a copy of the tech-

nical standard. Where provided, the department shall publish or reproduce the technical standard for public use.

**(2)** The department shall maintain a list of technical standards that it has determined adequate and effective to implement the performance standards under subch. [III](#) or [IV](#) and make the list available upon request.

**History:** CR 00-027: cr. [Register September 2002 No. 561](#), eff. 10-1-02.

# **Appendix I**

## **Components of Watershed-Based Plans (EPA's "Nine Key Elements" plans)**



## Components of Watershed-Based Plans (EPA's "Nine Key Elements")

The following information must be included in watershed-based plans to restore waters impaired by nonpoint source pollution using incremental Section 319 funds.

1. An identification of the **causes and sources** or groups of similar sources that will need to be controlled to achieve the load reductions estimated in the watershed-based plan (and to achieve any other watershed goals identified in the watershed-based plan), as discussed in item (2) immediately below. Sources that need to be controlled should be identified at the significant subcategory level with estimates of the extent to which they are present in the watershed (e.g., X number of dairy cattle feedlots needing upgrading, including a rough estimate of the number of cattle per facility; Y acres of row crops needing improved nutrient management or sediment control; or Z linear miles of eroded streambank needing remediation).
2. An estimate of the **load reductions expected for the management measures** described under paragraph (3) below (recognizing the natural variability and the difficulty in precisely predicting the performance of management measures over time). Estimates should be provided at the same level as in item (1) above (e.g., the total load reduction expected for dairy cattle feedlots; row crops; or eroded streambanks).
3. A description of the **NPS management measures** that will need to be implemented to achieve the load reductions estimated under paragraph (2) above (as well as to achieve other watershed goals identified in the watershed-based plan), and an identification (using a map or a description) of the critical areas in which those measures will be needed to implement the plan.
4. An estimate of the amounts of **technical and financial assistance** needed, associated costs, and/or the sources and authorities that will be relied upon, to implement the plan.
5. An **information/education** component that will be used to enhance public understanding of the project and encourage their early and continued participation in selecting, designing, and implementing the NPS management measures that will be implemented.
6. A **schedule** for implementing the NPS management measures identified in the plan that is reasonably expeditious.
7. A description of interim, **measurable milestones** for determining whether NPS management measures or other control actions are being implemented.
8. A set of **criteria that can be used to determine whether loading reductions are being achieved over time and substantial progress is being made towards attaining water quality standards** and, if not, the criteria for determining whether the plan needs to be revised or, if a NPS TMDL has been established, whether the NPS TMDL needs to be revised.
9. A **monitoring** component to evaluate the effectiveness of the implementation efforts over time, measured against the criteria established under item (8) immediately above.