

## AGENDA AMENDMENT

Eau Claire County Board of Supervisors  
**Tuesday, October 2, 2018 / 7 pm**

Courthouse, County Boardroom (Room 1277)  
721 Oxford Ave. Eau Claire, WI

### Eau Claire County Mission Statement:

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

- (1) Indicates 1<sup>st</sup> Reading
- (2) Indicates 2<sup>nd</sup> Reading

## **6. REPORTS TO THE COUNTY BOARD UNDER 2.04.320**

### Oral Reports

- Livestock Moratorium – Greg Leonard, Land Conservation
- Sean Lentz - 2018 Initial Bond Sale
- Norb Kirk – 2017 Audit Report

# Existing Regulations/Ordinances State of Wisconsin

- **Ag Performance Standards & Prohibitions (NR 151)**
  - Applies to all farms, with or without livestock
  - Cost-Share must be provided to existing facilities; new facilities must comply immediately
    - Manure Storage construction and closure
    - Manure Runoff from barnyards, feedlots, etc.
    - Cropland erosion
    - Nutrient management on cropland
    - Livestock access/tillage to streams/lakes
    - Wastewater runoff



## Slide Notes:

NR 151 (Runoff Management) includes Agricultural (Ag) Performance Standards and Prohibitions, in addition to Non-Agricultural Performance Standards (construction site erosion control, turf and garden nutrient management) and Transportation Facility Performance Standards (road construction erosion control). The Runoff Management rules target primarily Non-Point Sources of pollution, which is caused by rainfall or snowmelt moving over and through the ground. As the runoff moves, it picks up and carries away natural and human-made pollutants, finally depositing them into lakes, rivers, wetlands, and ground waters. These differ from Point Sources, which come from one specific source, such as a wastewater treatment facility discharge pipe.

The Ag Performance Standards and Prohibitions apply to all farms, with or without livestock. When the Standards can be enforced is dependent on if the standard being addressed on a farm was existing at the time of NR 151 adoption by the State, or if it is a new operation or facility. Previously existing facilities must be offered cost-share (typically 70%) to bring the facility into compliance. New operations or facilities must comply immediately.

The Ag Performance Standards and Prohibitions include Manure Storage construction and closure; manure runoff from barnyards, feedlots, or pastures; cropland erosion; nutrient management on cropland and pastureland; lake and streambank protection from livestock and tillage setbacks; and agricultural wastewater runoff standards.

The Ag Performance Standards and Prohibitions include provisions for both surface water and groundwater protection.

**Slide Notes:**

**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. [ATCP 50](#), unless the local governmental unit obtains approval from the department under sub. **(2)**, or receives approval from DATCP pursuant to s. [ATCP 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.

**(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.

# Existing Regulations/Ordinances State of Wisconsin

- **Ag Performance Standards & Prohibitions (NR 151) continued**
- NR 151.096
  - Limits local ordinances and regulations to the NR 151 standards, unless the local governmental unit obtains approval from the State



# Existing Regulations/Ordinances State of Wisconsin

- **Animal Feeding Operations (NR 243)**
  - Concentrated Animal Feeding Operations (CAFO)
  - All of the Ag Performance Standards & Prohibitions (NR-151) , plus further restrictions
  - “Zero Discharge”



## Slide Notes:

NR 243 (Animal Feeding Operations) includes runoff rules for Large Concentrated Feeding Operations, or Concentrated Animal Feeding Operations (CAFO). Farms with 1,000 Animal Units are required to obtain a permit from the Wisconsin Department of Natural Resources (DNR).

The Ag Performance Standards and Prohibitions contained within NR 151 apply to all permitted farms. Additional, more restrictive standards apply to permitted farms for nutrient management and manure storage standards.

Permitted farms are also classified as a Point Source. This means the farmstead facilities cannot have any discharge from the barnyard, feed storage, or from wastewater; a “Zero Discharge” system.

# Existing Regulations/Ordinances State of Wisconsin

- **Livestock Siting (ATCP 51)**
  - Option if a County (or Town) wishes to implement
  - Can do either Zoning Ordinance or Licensing
  - Become restricted by the State Standards for Ag Performance Standards (NR-151)
  - Property Line and Road set-backs become restricted to the State standards
  - Cannot start any lower than 500 Animal Units



## Slide Notes:

Livestock Siting (ATCP 51) provides local municipalities an option for the siting of livestock operations.

“This [law] is an enactment of statewide concern for the purpose of providing uniform regulation of livestock facilities.”

The Ag Performance Standards and Prohibitions (NR 151) are the runoff standards.

Local ordinance setbacks of livestock operations from property lines and roads are restricted to the statewide standards.

More stringent local standards must be “based on reasonable and scientifically defensible findings of fact adopted by the political subdivision's governing authority.”

# Existing Regulations/Ordinances Eau Claire County

- Farmland Preservation – 17.03
  - Includes NR-151 Ag Performance Standards & Prohibitions
- Animal Waste Storage Ordinance – 17.04
  - Includes Manure Storage and Nutrient Management portions of the NR-151 Ag Performance Standards & Prohibitions
- Erosion Control Ordinance – 17.05
- Storm Water Management – 17.06
- Zoning – Title 18
- Shoreland Protection – Title 20



## Slide Notes:

Farmland Preservation is a voluntary income-tax credit program only available to landowners in the state certified Farmland Preservation areas. These include the zoned towns Agricultural Preservation districts, and the Golden Triangle Agricultural Enterprise Area.

The Animal Waste Storage Ordinance is effect for all of Eau Claire County. This includes the standards for construction, or repair, of animal waste storage facilities, and the proper abandonment of unused structures. Also included is the requirement of nutrient management planning.

The Erosion Control and the Storm Water Management Ordinances include many of the provisions contained in the NR 151 Non-Agricultural Performance Standards. During construction, these ordinances may apply to animal facilities.

Eau Claire County's Title 18-Zoning code includes restrictions of livestock facilities within designated zoning districts. The Shoreland Protection Overlay District provides building setback requirements from shorelands and wetlands.

Eau Claire County Land Conservation will be working on revisions and updates to the Animal Waste Storage Ordinance with a citizen's workgroup from December 2018-March 2019. The workgroup will include members of livestock agriculture, non-livestock agriculture, Towns/City/Village representatives, environmental groups, and members of the Land Conservation Commission. Specialist from the Wisconsin Department of Agriculture, Trade, and Consumer Protection, and the Department of Natural Resources have already been contacted to lead discussions on their respective topics. Included in the review will be the consideration of incorporating NR 151 and/or Livestock Siting provisions into county code. These considerations will be a comprehensive review of all agricultural rules and regulations within the County, not just those in relation to large scale livestock operations. This work will proceed regardless of the outcome of the proposed moratorium.