

*WISCONSIN
LAND & WATER CONSERVATION BOARD*

BYLAWS



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I. PURPOSE

The Wisconsin Land and Water Conservation Board (the board), which is attached to the Department of Agriculture, Trade and Consumer Protection (DATCP), advises DATCP on issues related to the soil and water resource management program and administers certain aspects of the farmland preservation program. The board also advises the Department of Natural Resources (DNR) on issues related to the nonpoint source water pollution abatement program including Targeted Runoff Management (TRM) and Notice of Discharge (NOD) funding projects.

The board is responsible for making decisions relative to adjudicatory matters, policy review and program administration, and rulemaking. Specific authorities and duties are listed in Appendix A.

II. MEMBERS

A. Members

As required by s. 15.135(4)(b) of the Wisconsin Statutes, the board consists of:

- 1) The secretaries of administration, of natural resources, and of agriculture, trade and consumer protection, or their designees;
- 2) Three members of county land conservation committees elected biennially by the county land conservation committees at their annual meeting in even-numbered years for 2-year terms; and
- 3) Four other members appointed by the Governor for staggered 4-year terms. One of those members shall be a resident of a city with a population of 50,000 or more, one shall represent a governmental unit involved in river management, one shall be a farmer and one shall be a member of a charitable corporation, charitable association or charitable trust, the purpose or powers of which include protecting natural resources, including scenic or open space, and maintaining or enhancing air or water quality.
- 4) One representative appointed by the Governor for a 2-year term.

B. Advisory Members

As required by s. 15.135(4)(c) of the Wisconsin Statutes, the board shall invite:

- 1) The U.S. Secretary of Agriculture to appoint a representative of the Natural Resources Conservation Service and a representative of the Farm Service Agency to serve as advisory members of the board.
- 2) The Dean of the College of Agricultural and Life Sciences of the University of Wisconsin-Madison and the Director of the University of Wisconsin-Extension to serve or appoint a person to serve as an advisory member of the board.
- 3) The staff of the county land conservation committees employed under s. 92.09 to designate jointly a person to serve as an advisory member of the board.

The board may invite representatives of other organizations to provide information and advice relative to its responsibilities.

C. Vacancies

If one or more of the county land conservation committee member positions on the board is vacant, the president of the Wisconsin Land and Water Conservation Association, Inc. (Wisconsin Land + Water) board of directors may call a special meeting of the committees to fill the vacancies, but vacancies may be filled only if a majority of the committees are represented at the special meeting. [s. 15.135(4), Stats.]

D. Terms

The terms of members of the board appointed under s. 15.135(4)(b)2 (representing Wisconsin Land + Water) shall expire on January 1. [s. 15.07(1)(cm), Stats.]

The term of the member appointed by the Governor under s. 15.135(4)(b)2m for a 2-year term shall expire on May 1 of an even-numbered year. [s. 15.07(1)(cm), Stats.]

The terms of other members shall expire on May 1. If the term is for an even number of years, it shall expire in an odd-numbered year. [s. 15.07(1)(c), Stats.]

E. Attendance

If a member is absent at two consecutive meetings without reasonable justification, as determined by the board, the board may notify the Governor's office or the entity that the member represents.

F. Oath of Office

Each member shall take and file the official oath prior to assuming office. [s. 15.07(7), Stats.]

III. OFFICERS

At its first meeting in each year, the board shall elect a chair, vice-chair and secretary, each of whom may be re-elected to succeed himself or herself. [s. 15.07(2), Stats.]. Candidates for each office shall be nominated from the floor unless the Board agrees to a different procedure in a meeting held prior to the election.

IV. AUTHORITIES AND RESPONSIBILITIES

A. Adjudication

In administering the farmland preservation program, the board has quasi-adjudicatory authority to:

- 1) approve or reject a request for release or relinquishment from an agreement entered into before July 1, 2009 or under 2009 Wisconsin Act 374 and not modified under the new Farmland Preservation law, after the local governing body has acted on the request;

This authority is listed in full in Appendix A under Farmland Preservation.

B. Policy Review and Program Administration

The board has various authorities and responsibilities related to policy review and program administration. These include general program responsibilities under the farmland preservation program, the soil and water resource management program, and the nonpoint source water pollution abatement program, including the Targeted Runoff Management Program and Notice of Discharge Grants. These authorities are listed in full in Appendix A.

C. Program Evaluation

The board has the authority to require DNR and DATCP to conduct or contract for another person to conduct any evaluation or audit of the nonpoint source water pollution abatement program that the board determines is necessary.

D. Rulemaking

Under s. 92.04(3)(f), the board has no rulemaking authority on matters related to land and water conservation. The board may make recommendations to rules relevant to these issues.

V. DECISION MAKING PROCESSES

The board will use the following procedures when exercising its authority in the categories identified under Section IV.

A. Adjudication

When the board acts in its quasi-adjudicatory capacity under the farmland preservation program, DATCP staff shall provide the board with the following materials:

- 1) an explanation of the board's statutory authority related to the issue before the board;
- 2) an explanation of the statutory or rule provisions pertaining to the issue;
- 3) a proposed decision consisting of proposed findings of fact, proposed conclusions of law, and a proposed order; and
- 4) an explanation of the proposed decision, including relevant factual, legal, and policy background. If facts relevant to the proposed decision are contested, DATCP staff shall identify the contested facts.

Before rendering a decision, the board may hear evidence and arguments related to contested issues, or may appoint one or more board members to hear the contested issues on behalf of the board. If necessary, the board may request DATCP to provide an impartial hearing examiner to hear and evaluate evidence on behalf of the board.

The board may adopt DATCP staff's proposed decision as the final decision of the board, or it may modify the proposed decision. If the board modifies the proposed decision, the board's final decision shall include an explanation for the modification. If the board's final decision is appealed in circuit court, the board chair or designee shall certify the board's decision and record to the circuit court.

B. Policy Review and Program Administration

When a policy or program administrative item is brought before the board for decision, staff shall provide the board with the following:

- 1) the statutory authority under which the board is authorized to act, and the scope of that authority;
- 2) a statement indicating whether the board is responsible for making a final decision or for recommending a decision to another entity;
- 3) an accurate and objective statement of relevant facts;
- 4) an objective statement of policy issues and background;
- 5) options available to the board; and
- 6) staff recommendations.

C. Program Evaluation

In fulfilling the program evaluation responsibilities of the nonpoint source water pollution abatement program and the soil and water resource management program, staff shall prepare the following materials for the board:

- 1) an evaluation plan, which includes water quality monitoring and analysis;
- 2) a biennial joint program evaluation report of the nonpoint source water pollution abatement program and the soil and water resource management program;
- 3) statewide accomplishment reports; and
- 4) fiscal information related to cost share grants and technical assistance.

D. Forum

The board may provide a forum for discussion of emerging issues related to land and water conservation.

VI. MEETING PROCEDURES

A. Schedule and Place of Meetings

Regular meetings will be held on the first Tuesday of February, April, June, August, October, and December unless an alternate date is agreed to by a majority of the board.

Special meetings may be called by the chair at anytime.

Meetings will generally be held at DATCP or DNR in Madison, or other appropriate locations including the site of the annual Wisconsin Land + Water conference. Other locations for meetings may be scheduled for special events or to accommodate particular agenda items.

The LWCB and its committees may hold a meeting by telephone, video or internet conferencing as long as it meets the definition of a meeting as set forth in Section 19.82(2),

Stats. in that it is for the purpose of conducting governmental business and involves a sufficient number of members of the body to determine the body's course of action on the business under consideration. The LWCB must follow all Open Meeting Law requirements in Chapter 19, Subchapter V, and provide the public with an effective means to monitor the call.

All meetings shall be noticed in accordance with the open meeting laws, Chapter 19, Stats.

B. Agendas

1) Individual Meeting Agendas

The agenda shall be prepared by the staff of DATCP Land and Water Resources Bureau in consultation with the DNR Watershed Management Bureau, and coordinated with the chair of the board, 14 calendar days prior to the next scheduled meeting. The agenda will be mailed to members at least 10 days prior to the next regularly scheduled meeting, except in the case of special or emergency meetings.

The agenda shall include:

- a) approval of minutes of the previous meetings(s),
- b) public appearances, if any,
- c) approval of agenda and additions or changes,
- d) actions as authorized by statutes,
- e) recommendations to DATCP or DNR as authorized by statutes,
- f) recommendations to DATCP or DNR on program policy issues,
- g) advisory member reports,
- h) committee or departmental reports,
- i) other business authorized by law, and
- j) future meetings scheduled.

2) Annual Agenda

During the board's December meeting, DATCP and DNR staff will submit a proposed annual agenda for the board's activities for the following year. Preparation of the annual agenda shall be coordinated with the board chair. The board shall take action during the December meeting to approve or disapprove the proposed annual agenda. The annual agenda shall indicate the party(ies) responsible for each agenda item.

C. Record of Meetings

A record of each board or committee meeting shall be prepared and preserved by DATCP, consistent with VI. E. below. The record of a meeting shall be mailed or electronically transmitted to each member, each advisory member and any agency or individual upon request.

D. Board Materials

1) Review

DNR materials relevant to the soil and water resource management program and the nonpoint source pollution abatement program shall be delivered to DATCP at least 7 days prior to the board mailing date, and sooner if possible.

DATCP materials that are relevant to the nonpoint source pollution abatement program shall be delivered to DNR at least 7 days prior to the board mailing date, and sooner if possible.

DATCP and DNR will obtain legal review by its agency counsel if such review is deemed necessary. DATCP materials will be approved by the Administrator of the Agricultural Resource Management Division, or the Administrator's designee; and DNR materials will be approved by the Watershed Management Bureau Director, or the Director's designee, prior to delivery to DATCP for mailing.

The administrator of the ARM Division or the administrator's designee shall approve all DATCP materials for distribution to the board.

2) Distribution

All board materials, including DATCP and DNR materials, shall be forwarded to DATCP's Agricultural Resource Management Division, and distributed to the board under the signature of the administrator of the ARM Division or the administrator's designee.

Board members and advisors will receive electronic copies of meeting materials in advance of the meeting unless they explicitly request to receive the meeting materials in hard copy. Materials prepared by DATCP and DNR related to board agenda items shall be sent by DATCP to the board members and advisors at least 10 days prior to the board meeting, and sooner if possible. Staff may distribute materials after regular mailings, including on meeting days, when appropriate.

All press releases prepared by staff pertaining to board issues shall be reviewed and approved by the board chair.

E. Conduct of Meetings1) Conduct of Meetings

The chair or, in the absence of the chair the vice chair or, in the absence of both, the secretary, or in the absence of all three, any member chosen by the members present, shall call the meetings of the board to order and shall act as chair of the meetings. The board secretary shall act as secretary of all meetings of the board. In the absence of the secretary, the presiding officer may appoint any member present to act as secretary of the meeting. The secretary shall direct the department to prepare a record of all board meetings. A record of each meeting must be prepared as required by sec 19.88, Stats. Minutes of each meeting are the usual method to meet this requirement, and shall be taken by DATCP staff and signed by the secretary of the board. With the approval of the chair or the secretary of the board or a board committee, a digital audio recording may be used as an alternative meeting record. The board recognizes and gives full legal effect to electronically-submitted documents, electronic signatures, electronic notarization and acknowledgement, and electronically- maintained files, consistent with subch. II of ch. 137, Stats. Whatever its form, any record of a meeting must be retained by DATCP in accordance with established guidelines in Records Destruction Authorizations (RDAs). Any subject matter regarding procedure not covered by these bylaws will be covered by *The Sturgis Standard Code of Parliamentary Procedure*. Meetings shall be conducted in accordance with Wisconsin's open meeting law.

2) Manner of Acting

Except as otherwise expressly provided in these bylaws, action shall be taken by the board upon a vote of a majority of the members present at a meeting and the same shall be the action of the board. The voting on all matters at a meeting for which a roll call vote is requested shall be by yeas and nays and the yeas and nays shall be reflected in the record of the meeting. All resolutions shall be presented in writing or reduced to writing during or after the meeting, and shall be reflected in the record of the meeting.

3) Quorum

Six board members shall constitute a quorum and no formal business may be transacted unless a quorum is present. When fewer than six members are present, the meeting will be a conference of the board and its deliberations considered as expressions of opinion of the individual board members and consideration of information presented by DATCP and others present.

VII. COMPENSATION AND EXPENSES

Board members who are not employees of state agencies are eligible to receive \$25.00 per diem plus expenses "incurred in the performance of their duties." [s. 15.07(5), Stats.]. The following policy defines the duties of members of the board, the performance of which establishes eligibility for per diem and expenses.

A. No Prior Approval Required

Board members will receive per diem and expenses for attending:

- 1) Official meetings of the Land and Water Conservation Board;

- 2) A meeting of a governmental body of which the Land and Water Conservation Board is a member, if the member is representing the Land and Water Conservation Board;
- 3) Area meetings of the Wisconsin Land and Water Conservation Association if the board member has been invited to participate in the meeting in his or her capacity as a member of the Land and Water Conservation Board.

B. Prior Approval Required

Board members will receive per diem and expenses for attending any other meetings, other than those listed in Section VII, A, or activities, only if prior approval has been obtained from the board chair, with the concurrence of the ARM administrator.

VIII. COMMITTEES

The board shall set forth the composition of any committees it establishes, the areas or matters concerning which such committees shall advise the board, the specific duties and responsibilities the board expects them to perform and discharge, and such other matters as the board deems relevant to individual committees.

An executive committee of the LWCB Officers may meet as necessary to fulfill responsibilities of the LWCB.

IX. REVIEW OF AND AMENDMENTS TO THE BYLAWS

Bylaws shall be reviewed at the December meeting of even numbered years. These bylaws may be altered, amended or repealed and new bylaws may be adopted by an affirmative vote of six members present at any regular meeting provided that notice of each proposed change hereof or addition hereto has been delivered personally, or mailed to each member at such address as the member shall have designated to the board, not less than 10 days prior to the time of meeting at which the proposed change or addition is to be considered.

X. STAFF ASSISTANCE

DATCP and DNR shall provide staff to assist the board in performing its statutory duties. [ss. 92.05(3)(i) and s. 281.65(4)(s), Stats.]

Bylaws originally adopted by the LCB in 12/88;
amended: 4/91, 2/94, 4/95, 4/97, 12/98, 2/01, 4/04, 2/09, 12/10, 6/11, and 12/14.

APPENDIX A - Program Authorities and Responsibilities

FARMLAND PRESERVATION PROGRAM—under Chapter 91, 2007 Wisconsin Statutes, and 2009 Wisconsin Act 374

<u>Cite</u>	<u>Language</u>
91.19(3)	If the request for release of land or relinquishment of the FPA is approved by the local governing body...the board shall, within 60 days...approve or reject the application for release or relinquishment. (This pertains to an agreement entered into before July 1, 2009 or under 2009 Wisconsin Act 374 and not modified under the new Farmland Preservation law.)
91.19(5)	If the application for release of land or relinquishment of the FPA is rejected by the local governing body having jurisdiction...the applicant may appeal to the board. The board shall, within 60 days...approve or reject the request for release or relinquishment. (This pertains to an agreement entered into before July 1, 2009 or under 2009 Wisconsin Act 374 and not modified under the new Farmland Preservation law.)

2009 WI ACT 374

Section 1.

- (1) (a) Notwithstanding the repeal and recreation of chapter 91 of the statutes by 2009 Wisconsin Act 28 and subject to paragraphs (b) and (c), the department of agriculture, trade and consumer protection shall process an application for a farmland preservation agreement in accordance with chapter 91, 2007 stats., if the application was submitted to the county clerk under section 91.13 (1), 2007 stats., no earlier than January 1, 2008, and no later than June 30, 2009, and if processing of the application was not completed before July 1, 2009. Section 91.60 (3) of the statutes, as affected by 2009 Wisconsin Act 28, applies to a farmland preservation agreement entered into under this subsection as though the farmland preservation agreement had been entered into before July 1, 2009.

SOIL AND WATER RESOURCE MANAGEMENT PROGRAM

Several of the roles and responsibilities relating to Department programs no longer apply because the programs are not active. The items that no longer apply are marked with an asterisk (*).

<u>Cite</u>	<u>Language</u>
92.04(1)(a)	The board may hold public hearings in the performance of its functions.
92.04(1)(b)	The board may delegate to its chairperson or to one or more of its members any of its powers or duties.
92.04(1)(c)	The board may make studies and recommendations on matters relating to soil and water conservation.
92.04 (2)(a)	The board shall advise DATCP and the DATCP secretary on matters relating to exercise of DATCP's authority under this chapter.
92.04(2)(b)	The board shall review land and water resource management plans prepared under s. 92.10, and make recommendations to DATCP on approval or disapproval of those plans.

- 92.04(2)(c) *The board shall review soil and water conservation standards prepared under s. 92.105. The board shall establish guidelines for the approval of these standards.
- 92.04(2)(d) The board shall review annual grant allocation plans developed under s. 92.14 (6)(b) and make recommendations to DATCP on approval, modification or disapproval of the plans.
- 92.04(2)(e) The board shall review the evaluation plan prepared under s. 92.14(13). After its review, the board shall make recommendations on the plan to DATCP and the DNR.
- 92.04(2)(f) The board shall review the annual reports under ss. 92.14(12) and 281.65(4)(o).
- 92.04(2)(g) The board shall advise the University of Wisconsin system annually on needed research and educational programs relating to soil and water conservation.
- 92.04(2)(h) The board shall review compliance with state soil erosion control goals established under s. 92.025. The board shall notify DATCP and the legislature if these goals are not achieved or if it is unlikely that these goals will be achieved.
- 92.04(2)(i) *The board shall establish a tolerable erosion level based on an erosion rate which is acceptable and maintains long-term soil productivity.
- 92.04(2)(j) The board shall keep a full and accurate record of all proceedings before it and all actions taken by it.
- 92.04(2)(k) *The board shall review and affirm or reverse pollution abatement determinations made by county land conservation committees under s. 281.20(3)(b) when requested to do so under the provisions of s.281.20(5).
- 92.04(2)(L) *The board shall review and affirm or reverse critical site determinations made by county land conservation committees under s. 281.65(7)(a)2. when requested to do so under the provisions of s.281.65(7)(b).
- 92.04(3)(a) The board shall review all rules of DATCP relating to implementation of Chapter 92 prior to promulgation. (Note: The board has no rule-making authority on matters relating to soil and water conservation.)
- 92.10(1) DATCP, the board and land conservation committees jointly shall develop and administer the land and water resource management planning program.
- 92.10(5)(a) The board shall review land and water resource management plans submitted by the land conservation committees and make recommendations to DATCP.
- 92.10(5)(b) The board shall solicit comments on land conservation committee plans [land and water resource management plans] from the agencies identified as advisers to the board.
- 92.105(2)&(3) *The board shall develop guidelines...for the administration of soil and water conservation standards. [This includes standards used in the farmland preservation program.] The board shall review and approve or disapprove standards....
- 92.14(6)(d) The board shall review the annual allocation plan submitted...and make recommendations to DATCP and DNR on approval, modification, or disapproval of the plan.

- 92.14(12) The board shall review annual reports [on the SWRM program] provided by DATCP and DNR.
- 92.14(13) The board shall make recommendations to DATCP and the DNR on the joint [program evaluation] plan, which includes water quality monitoring, and analysis, for the program administered under ss. 92.14 and 281.65, Stats.
- 92.17(2)(c) *The board shall review drafts of shoreland management ordinances and make recommendations to DATCP for approval or disapproval.

NONPOINT SOURCE WATER POLLUTION ABATEMENT PROGRAM

Several of the roles and responsibilities relating to the Priority Watershed Program no longer apply because this program is being phased out. The items that no longer apply are marked with an asterisk (*).

<u>Cite</u>	<u>Language</u>
281.65(3)(a)	*The board shall review the list, prepared by the DNR, of watersheds and lakes that have impaired waters caused by nonpoint source pollution.
281.65(3)(am)	*The board shall designate priority watersheds and priority lakes.
281.65(3)(ap)	*The board shall review and approve priority land and priority watershed plans.
281.65(3)(at)	The board shall review rules drafted under [s. 281.65, Stats.] and make recommendations regarding the rules before final approval of the rules by the natural resources board.
281.65(3)(b)	Before September 1, of each even-numbered year, the board shall submit to the Governor and the DNR a report that includes recommendations for the amount to be appropriated for the NPS program for the next biennium and any changes that would improve the efficiency or effectiveness of the NPS program.
281.65 (3)(bm)	The board shall submit, as it deems necessary, to the governor and the DNR a report that includes: (1) recommendations for the amount to be appropriated for the program, and (2) any changes that the board determines would improve the efficiency or effectiveness of the program.
281.65(3)(c)	The board shall assist counties and the DNR to resolve concerns about the program.
281.65(3)(d)	The board shall establish priorities for the allocation of funds in the event that program needs exceed available funding in any fiscal biennium.
281.65(3)(e)	The board shall request the building commission to authorize public debt to be contracted in the amount that the board determines to be necessary for the purposes of the program.
281.65(3)(f)	The board shall require DNR and DATCP to conduct or contract for another person to conduct any evaluation of the program under this section and of individual priority watershed or priority lake projects that the board determines is necessary.
281.65(3m)	*The board shall identify priority lakes and watersheds by July 1, 1998, based on the list submitted by the DNR and recommendations from the DNR and DATCP.

The board shall identify priority lakes and watersheds using the provisions of s.281.65 (3m).

- 281.65(4)(L) Before September 1 of each year, the board shall review a budget report, submitted by DNR [in consultation with DATCP], that includes anticipated expenditures for [*priority lake, watershed, and] targeted runoff management projects for the next year and criteria for ending these projects. If the anticipated expenditures exceed available funding, the report must also include a plan for reducing expenditures.
- 281.65(4c)(c) After receiving [*priority watershed, priority lake, or] any NPS pollution abatement project scores, and DNR recommendations on funding those projects no later than September 1 of each year, the board shall recommend projects for funding under s.281.65 in the following year.
- 281.65(5s) *The board shall review, and affirm, modify or reverse any modifications made by the DNR to priority lake or watershed plans, including designating additional sites as critical sites.