



**Wisconsin
County Code
Administrators**

July 24, 2007

Wisconsin Dept. of Natural Resources
Attention: Toni Herkert
P.O. Box 7921
Madison, WI 53707-7921

**RE: WCCA
Public Hearing Testimony
NR 115**

Dear Ms. Herkert:

The WCCA is an organization of county employees who administer and enforce NR115 through county shoreland and wetland zoning ordinances. WCCA members have been administering shoreland and wetland zoning for nearly 40 years since the state first authorized NR115.

Three members of WCCA have served on the DNR NR115 Advisory Committee since November, 2002 and have provided comments to the DNR throughout the NR115 rewrite process. The WCCA has also had a NR115 subcommittee, who have reviewed and provided comments on all NR 115 drafts.

Shortly after starting the re-write process in 2003, we made the following comments:

In developing minimum standards, it is very important that the following criteria are met:

- (1) the standard can be effectively administered
- (2) it is defensible
- (3) it reflects the will of the citizens
- (4) it provides a reasonable balance between the protection of the water resources and individual property rights.

In establishing standards, we believe they must meet the test of time and more importantly must be periodically reviewed as to the effectiveness of the standard in accomplishing the goals for which they are intended. We should always keep in mind that these rules deal with our land, homes and resources which next to our families and health is the most important priority in our lives.

It is now summer of 2007 and we may be in the final stages of input from WCCA to the DNR Natural Resources Board, Wisconsin Legislature, and the general public.

WCCA would like to first comment about many of the **POSITIVE** reasons for revising NR115, which I will list:

- The 40+ year rule needs revision.
- Existing NR115 nonconforming language is out of date.
- The latest draft incorporates science based concepts such as regulating impervious surfaces.
- NR115 revisions are following a proactive county lead for resource protection (17 counties in Wisconsin have revised codes based on water body classification).
- The revision process has followed a good approach for public involvement; citizen advisory committee, focus groups, hearings.
- The current draft provides flexibility based on mitigation.
- The draft promotes shoreland vegetative buffers.
- The draft provides a platform and/or opportunities for partnerships.
- The current draft is better than last public hearing draft.

Our remaining comments will focus on the following:

- (1) the **intent** of the code revision process
- (2) who/what will be **impacted** by the code
- (3) how the code will be **implemented**

In our opinion, the **intent** of the code revision should address the following issues:

- Shifting the code to science based resource protection,
- Clarification of language,
- Balancing resource protection with private property rights,
- Simplifying regulations,
- Adopting enforceable regulations, and
- Increasing flexibility for administration based on regional resource differences.

Who/what will be **impacted** by the NR115 code revision?

- Landowners within 1,000' of a lake or 300' of navigable streams,
- Users of navigable waters,
- Counties administering the code,
- County budgets to cover costs to amend ordinances,
- Contractors,
- Resources, both water and land,
- General taxpayers,
- Costs to users and/or taxpayers, and
- Future generations

The most important item for our organization is **implementation**. After reviewing the current draft of NR115, it has become apparent that the counties need a greater commitment from the State to successfully implement the shoreland program & protect our water resources. We feel the following items need to be addressed before the code can be adopted:

-Provision of state monies (like non-point-DATCP monies) to counties for NR115 implementation,

-Training/Education programs,

-Availability of technical assistance in the field,

-The need to shift responsibilities to other agencies (State/local) for certain portions of code compliance (i.e., shoreland restoration, mitigation, storm water), and

-Education of general public, contractors, etc.

WCCA has specifically reviewed the proposed code and are still in opposition to certain code sections. The following is a listing of the sections we are opposed to and recommend changing:

REASONS FOR OPPOSITION AND RECOMMENDATIONS:

- 1) Opposed to mandatory vegetation buffer requirements for all new principal structures.

We recommend:

Vegetation buffer requirements only for principal structures that do not meet setback requirements or do not meet impervious surface limits.

- 2) Opposed to 10% impervious surface limit which forces an increased number of requests for variances and creates numerous nonconforming structures/uses.

We recommend:

A 20% impervious surface limit within 300' (with no mitigation) & 30% impervious surface limit with mitigation and flexibility for counties to be more restrictive.

- 3) Opposed to DNR development and approval of technical mitigation standards.

We recommend:

A detailed list of user friendly examples of mitigation standards, developed cooperatively between the DNR & counties & others.

- 4) Opposed to the uncertainty of pre & post construction runoff calculations and methods of determining implementation of mitigation practices.

We recommend:

A restored/preserved vegetation buffer should satisfy mitigation requirements for impervious surface limit, including storm water up to the 30% cap.

- 5) Opposed to how the definition of expansion and structural alteration is linked to mitigation (i.e., a structure not meeting setback requirements with a proposed roof replacement to increase roof pitch must be mitigated).

We recommend:

Expansion that exceeds the 20% cap should trigger mitigation. Structural alterations alone should not trigger mitigation.

- 6) Opposed to code mandated administrative procedures (land disturbing activities permit, regular inspections, scaled drawings, etc.).

We recommend:

Allowing counties to develop administrative details.

In closing, it should be noted that many counties have individual concerns with various code sections not previously mentioned that need to be addressed. The DNR needs to find a balance between the code and reality.

The WCCA is not in favor of adopting a code that can not be effectively enforced by the counties. The proposed code can not be effectively enforced.

We are also not in favor of adopting this code that the DNR believes can be effectively enforced with existing staff and financial resources. In truth Counties can not meet the DNR's expectations of the current draft without additional staff and resources.

We are not asking to be treated "special" in this complex process; however we are requesting to have our concerns clearly understood as we are the front line educators, administrators, enforcers, and defenders of the great responsibility and challenge of protecting our water resources.

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If you have any questions please give me a call at 715-421-8471 or email me at dgreuel@co.wood.wi.us.

Sincerely,

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