

IV. SUMMARY OF MAJOR FINDINGS

Major Findings and Model Best Management Practices

The following section briefly summarizes the major findings of this inventory and gaps analysis. Model examples of BMP implementation within the Black and Oatka Creek watersheds have been delineated with an arrow symbol (“➔”). When no such examples were found to be practiced locally, models from across the region and the country have been cited.

Section 1: Development

General Findings

While state, county and regional entities in New York State are granted some authority over land use, the majority of authority has been delegated to local municipalities, a tradition commonly referred to as “home rule”. As stated in his book *Well Grounded: Shaping the Destiny of the Empire State*, John Nolan explains:

Specific authority has been delegated to municipalities to adopt comprehensive plans and zoning laws and to adopt subdivision and site plan regulations under the Village, Town, and General City Law. General authority to legislate with regard to the public health, safety and welfare and the physical environment is delegated under the Municipal Home Rule Law, which is the source of authority often relied on to adopt natural resource protection regulations. The General Municipal Law provides specific authority to local governments to adopt laws relating to the protection of trees, the preservation of historic districts and landmarks, and the creation of conservation advisory boards.²

At a minimum, municipalities can govern the location, height, size and – to a degree – the use of various structures through zoning regulations. Most municipalities choose to go several steps further, however, in an effort to ensure the safety and quality of life in their communities and to decrease economic risk or liability that may result from aberrant building and development practices. Such is the case within the majority of municipalities in the Black and Oatka Creek watersheds.

Best management practices most commonly found in this analysis were those related to development practices; consequently, stormwater and erosion and sediment control BMPs were most commonly found within a local subdivision ordinance. The subdivision ordinance provides a local review board (typically a planning board) with the authority to review and approve land subdivisions based on a set of local standards. In many cases, these standards included BMPs in erosion and sediment control or other environmental safeguards, such as protecting the natural character of the land, providing for adequate drainage, or the proper installation of important facilities such as detention ponds and road ditches.

² Nolan, John R. *Well Grounded: Shaping the Destiny of the Empire State*. White Plains: Pace University School of Law, 1999. Page 5.

Municipalities found to have the most comprehensive protections regarding erosion and sediment control were those where a specific “Stormwater and Sediment Control” or “Specifications for New Construction” regulations were present in conjunction with a zoning or subdivision ordinance.

➡ Model Best Management Practice: The NYS Sample Local Law for Stormwater Management and Erosion and Sediment Control

Under federal National Pollutant Discharge Elimination System (NPDES) regulations, selected municipalities in urban areas in NYS are required to pass and enforce a local law that will address stormwater management and erosion and sediment control. This process is referred to as Phase II Stormwater compliance; in NYS, the Department of Environmental Conservation (DEC) administers this program through the State Pollutant Discharge Elimination System (SPDES). The municipalities subject to all sections of this law are referred to as “regulated MS4s” (MS4 stands for Municipal Separated Storm Sewer System). Regulated MS4s are defined as urbanized areas which are generally contiguous census blocks with population densities of greater than 1,000 persons per square mile. At this point in time, only regulated MS4s are required to comply with this section of the Phase II Stormwater regulations. By March 10, 2003, such areas were required to begin developing and implementing Phase II stormwater programs in the urban portion of their community, including the passage of a local pre- and post-construction stormwater regulation.

In an effort to encourage regulated MS4 communities in NYS to comply with federal stormwater regulations, state agencies (DEC, NYS Department of State (DOS)) drafted a sample local law for communities to use as a guidance tool. As stated in the introduction to the sample law:

The goal of providing this model law is to assist communities in amending existing laws and ordinances and/or adopting new provisions of local law to meet the new federal and state guidelines for stormwater control. In designing a model stormwater law for a New York State audience, [we] include suggestions for standard language and concepts that [we] believe a good stormwater management program should contain.

The introduction goes on to state: “The local law should not be construed as an exhaustive listing of all the language needed for a local law, but represents a good base that communities can build upon and customize to be consistent with the local conditions and staff resources available in their municipality.”

Within the Black and Oatka Creek watersheds, 3 of the 28 municipalities are designated as regulated MS4 communities. These include the Towns of Sweden, Ogden and Chili. By January 1, 2008 these municipalities must comply with the full requirements of Phase II Stormwater regulations. As such, each town is currently working toward compliance and is actively involved with the Stormwater Coalition of Monroe County in order to seek assistance from other MS4 municipalities and provide insight on their experiences when possible.³

³ Visit the Stormwater Coalition of Monroe County’s website at: www.thestormwatercoalition.org.

Non-regulated MS4 communities are therefore not required to have their local ordinances meet the parameters of state and federal guidelines at this point in time. These municipalities should not construe this circumstance as a “free pass,” however. Instead, non-regulated cities, towns and villages should attempt to use this opportunity to their advantage by evaluating their current local laws with regard to state and federal stormwater regulations and addressing any gaps that might exist. By maintaining a proactive stance, municipalities can begin to develop a comprehensive and reliable approach to stormwater and erosion and sediment control. This can have the added benefit of providing a more consistent and predictable framework for developers to follow as they work across different jurisdictions.

The *Sample Local Law for Stormwater Management and Erosion and Sediment Control* – along with other useful stormwater resources – can be found online at the DEC’s website at the following address: <http://www.dec.state.ny.us/website/dow/mainpage.htm>.

Model Best Management Practice: Genesee County Smart Growth Plan

Land use and water quality are inherently connected. While individual water quality BMPs can target specific concerns within a jurisdiction, such an approach may be too narrow in scope in the absence of a comprehensive approach to land use and watershed management. The *Genesee County Smart Growth Plan* directly identifies infrastructure expansion as a precursor to development. In doing so, it sets the course for efficient use of infrastructure and protection of agricultural lands and open space throughout the county.

Requiring updates every two years, the primary function of the plan is to mitigate potential impacts of the Genesee County Water Supply Project on the viability of agriculture in Genesee County.⁴ New development is therefore encouraged to take place in designated development areas where infrastructure already exists, thereby minimizing potential land use conflicts. In turn, non-point source threats to water quality such as the growth of impermeable surface area and significant land disturbing activities can be minimized.

Information on the Genesee County Smart Growth Plan can be found at the following website: <http://www.co.genesee.ny.us/frameset.html?/dpt/planning/smartgrowth.html&1>.

Section 2: Forestry and Agriculture

General Findings

Beyond basic requirements – such as Soil and Water Conservation District (SWCD) certification of manure storage facilities – no significant local laws relevant to environmental agricultural management were found in the study area. Section 308 of Article 25-AA (Agricultural and Markets Law – Agricultural Districts) prevents municipalities from enacting laws which may unreasonably restrict farm operations that have been designated as “sound agricultural practices”

⁴ Starting in 2007, updates will be required every three years as opposed to two.

by the Commissioner of Ag and Markets.⁵ Agriculture and Markets staff review both existing and proposed laws across NYS to determine if they are compatible with farm operations. In cases where a local law is determined to be unreasonable, Ag and Markets staff work with the involved local government to develop mutually accepted modifications. If a local government is unwilling to modify a restrictive law, the Department is authorized to take action to compel compliance with the Agricultural Districts Law.

Article 25-AA is intended to protect farmers from nuisance suits and other public actions that may impact an agricultural operation's economic viability. The ability of municipalities to regulate specific practices such as tilling and fertilization methods is therefore severely restricted.

Many municipalities within the Black and Oatka Creek watersheds have strong representation by the farming community on local planning, zoning and conservation boards. These bodies seek to balance quality of life issues of the entire community while considering the functions that are necessary to run a profitable agricultural business, all while meeting the obligations of federal, state and applicable local laws. Furthermore, the advancement of sound agricultural practices within the local farming community have been incrementally applied on local farms by a variety of agencies – in particular, local branches of the Natural Resources Conservation Service (NRCS, a service of the United States Department of Agriculture), county Cornell Cooperative Extension offices, and county Soil and Water Conservation District offices. This voluntary, gradual approach to implementing environmental BMPs has proven to be successful, as evidenced by the growing number of farming operations participating in programs like Agricultural Environmental Management and other USDA-sponsored conservation programs.

➤ Model Best Management Practice: Agricultural Environmental Management

Agricultural Environmental Management (AEM) is perhaps the best example of a concerted, incremental effort toward implementing environmental BMPs among farms in NYS. Administered by SWCDs in all five counties in the case study area, the AEM approach begins by evaluating a farm's activities and future plans for growth. Based on the farm's current level of land stewardship and the needs of the watershed in which it lies, areas of concern are first prioritized and then addressed through comprehensive conservation plans tailored specifically to the farm. Implementation of such plans is done utilizing the greatest degree of financial, educational and technical assistance that is feasible. Agricultural operations are then continually evaluated in order to ensure that conservation needs are being met.

➤ Model Best Management Practice: Wyoming County Winter Crop Cover Program

An excellent example of agricultural BMP implementation can be found in Wyoming County, NY in the winter cover crop cost share program. The program is administered by the Wyoming County SWCD and funded through the NRCS under the Environmental Quality Incentives

⁵ Article 25-AA, § 308-1a and b

Program. There are at least 5,000 acres of cover crop both under cost share and some 1,000 or more with no cost share in place. As explained by Bruce Tillapaugh, Ag Program Leader/Field Crops Specialist:

Winter cover crops are required on many fields designated as “highly erodible land”. Established cover crops provide viable root systems and soil vegetative cover which protects soil from excessive rates of soil erosion. Implementation of an effective winter crop strategy also takes up nutrients and puts them in physical plant form, reducing the potential for nutrient loss to the environment. In the 2004 program year, a new experimental method of interseeding winter annual and perennial grass was evaluated. As a result, local farm producers have another viable alternative to fall establishment of cover crops.⁶

As stated above, some farmers are required to implement this BMP if they operate on highly erodible lands; others, however, choose to install cover crops simply to protect their soil and add valuable nutrients to the land when they are plowed under in the spring. Most landowners see direct operational savings in the form of reduced till and soil protection and, as a result, end up maintaining this BMP well after cost shares are discontinued.

Section 3: Waterways and Wetlands

General Findings

Few municipalities in the study area were found to have comprehensive local rules or regulations directed specifically at stream corridors or modified waterways. While setback guidelines and rules governing illicit discharges were not uncommon, few municipalities have enacted regulations regarding the design or long-term maintenance of modified streams. Article 15 and Article 17 of the NYS Environmental Conservation Law detail the regulations regarding water resources and water pollution control, respectively. Most municipalities generally feel that it is unnecessary to supersede these regulations at the local level. Rules regarding the protection, maintenance and stabilization of stream banks can be written into local code, however, without interfering with state Environmental Conservation statutes. Subdivision rules or the specific requirements of a stormwater management and erosion control plan are appropriate venues for dealing with such guidelines.

While a number of municipalities were found to cite the importance of wetlands within their comprehensive plans, few were found to have enacted rules or regulations specific to wetland protection. This is likely due to the presence of state and federal laws regarding wetland protection. Article 24 of the NYS Environmental Conservation Law provides for the protection of wetland areas of 12.4 acres or more throughout the state, while Section 404 of the Clean Water Act establishes a program to regulate the discharge of dredged or fill material into waters of the United States, which include wetland areas. Some activities are exempt from the Section 404 permit process, such as certain agricultural activities.

⁶ Tillapaugh, Bruce Ag Program Leader/Field Crops Specialist. “Winter Cover Crops.” Wyoming County Cornell Cooperative Extension 2004 Annual Report.

The degree to which these permitting systems are successful, however, can vary considerably under different circumstances. To this end, local regulations can be an important addition to state and federal enforcement. Furthermore, other environmentally-sensitive areas – such as vernal pools, for example – are not designated as wetlands under federal or state law, but nonetheless serve important ecological functions. These areas would therefore be at great risk in the absence of a specific local law if development were to take place.

If local municipalities are concerned about maintaining the integrity of riparian areas and wetland systems, enacting a local law that identifies the location and importance of these assets is highly recommended. Under NYS Municipal Home Rule Law, municipalities have the authority to adopt laws to protect the physical environment. “Under these local laws, broader definitions of wetlands may be adopted, larger buffer areas regulated, and a more extensive range of [permitted] activities covered.”⁷

➤ Model Best Management Practice: Implementing an Environmental Protection Overlay District (EPOD)

Overlay zones can be used in order to provide special controls over land development in designated areas of a municipality. Common applications of the overlay zone include historic districts, economic development districts, or areas of unique environmental integrity. Environmental Protection Overlay Districts (EPODs) are typically used around stream corridors, wetlands, steep slopes or flood plains; however, they can be applied to any land area that has been identified as a unique environmental asset worthy of special protection. Provisions applied in an overlay district area work in addition to other provisions of a zoning ordinance already in effect in that area and can be more restrictive or permissive than those that are already in place. Existing zoning provisions therefore do not have to be altered in an effort to conserve natural resources or realize development objectives.

➤ Model Best Management Practice: Rochester’s Cornerstone Group Wetland Mitigation Bank

Under the federal Clean Water Act and NYS Environmental Conservation Law, entities undertaking construction activities which impose unavoidable losses to protected water resources are required to meet compensatory mitigation requirements. Rochester’s Cornerstone Group (RCG), a real estate development, consulting, brokerage and property management firm, has initiated a unique method of managing wetland losses by developing a wetland mitigation banking system. The banking system is intended to create, restore or enhance wetlands and serve as a ‘bank’ of wetland credits for future wetland impacts resulting from development. Interested developers can purchase wetland credits to offset impacts resulting from construction activities. As stated on the RCG website:

Typically, when a developer is required to create wetland to offset the loss of wetlands caused by a particular project, the wetland is created long after the impacts have occurred. Wetland mitigation

⁷ Nolon, John R. Page 323.

banks are built in advance of a project's impacts and, as a result, provide compensation up front, without there ever being a loss of wetland function.

The first of its kind in NYS, this banking system has been developed with oversight and cooperation from regulatory agencies such as the US Fish and Wildlife Service, US Environmental Protection Agency (EPA), DEC and US Army Corps of Engineers (ACE). The current bank is located in the Town of Chili within the Black Creek watershed.⁸

Section 4: Recreation

General Findings

Best management practices in the area of golf course maintenance emerged as an issue of concern among local stakeholders during the initial municipal meetings. In addition to BMPs relative to docks and other waterfront activities, a list of 17 BMPs relative to management practices for golf course maintenance departments was developed. The assessment revealed that no municipalities have enacted any legislation governing practices in this particular area of concern. Indeed, it is understandable that such a proposal would likely rank low among towns given the host of other priorities that local officials are responsible for coupled with the relatively small number of courses present in the area. When one considers the volume of chemical pesticides and fertilizers applied and water consumption and irrigation that occurs on a golf course during a given operating season, however, further action may be desired.

Ascertaining the degree to which individual golf facilities in the region are undertaking environmental stewardship initiatives fell outside of the scope of this project. In order to better understand the issues, it is important that a baseline level of data first be established regarding environmental procedures of area golf facilities. The following two models begin to establish a framework for doing so.

➤ **Model Best Management Practice: Florida Department of Environmental Protection Manual**

In 1995, the State of Florida Department of Environmental Protection developed a basic guidance document regarding BMP implementation for golf course maintenance departments. This document identifies three general principles:

- Isolate all potential contaminants from soil and water, and,
- Do not discharge any material other than clean stormwater onto the ground or into surface water bodies.

⁸. "Wetland Mitigation Bank." Rochester's Cornerstone Group, Ltd. Last viewed online 2/6/06 at http://www.ricc-rcg.com/wetland_bank.asp.

- Minimize irrigation, fertilizer, and pesticide use requirements through use of Integrated Pest Management and native or naturalized vegetation wherever practicable.⁹

These basic goals are excellent performance standards that golf courses should strive for in the Black and Oatka Creek watersheds. Suggested future action in the Black and Oatka Creek watersheds is to establish to what degree these practices are taking place.

➤ **Model Best Management Practice: Golf Course Superintendents Association of America (GCSAA) Baseline Survey**

At present, there is limited data pertaining to golf course best management practices being used in the United States, let alone the Black and Oatka Creek watersheds. In March of 2006, the GCSAA, in partnership with the Toro Corporation, will begin to administer a baseline survey to golf facilities across the United States in order to establish a foundation of data relative to golf course best management practices in environmental management. Referred to as the *Golf Course Environmental Profile*, the survey will be designed to collect data on attributes such as natural resource inventories, management inputs and current environmental stewardship practices. Categories such as water use, water quality, habitat and wildlife, energy consumption and inputs of nutrients and pesticides are intended to be included. Essential data, such as a physical profile of courses, including information on acreage, vegetative cover, maintenance, and facility information will be covered as well.

It is unknown what the sample size of this survey will be or how many courses in the North Eastern and Great Lakes regions of the US will be contacted (i.e. where results will be transferable to Western New York). Results of this survey, however, will nonetheless be a significant asset for organizations interested in assessing environmental stewardship of golf courses at the local level. Baseline data and an established methodology will facilitate future research projects; furthermore, this effort can help to legitimize the issue of golf facility environmental stewardship in instances where groups fail to recognize that a problem may exist.

Information on the survey and the GCSAA can be found at the Environmental Institute for Golf website at <http://www.eifg.org/>.

Section 5: Roads and Bridges

General Findings

Practical good housekeeping procedures were observed to be present at most municipal facilities or were explained by officials. New road and bridge construction is rare throughout the entire case study area, even within areas experiencing high rates of new development. In instances where new road and bridge construction does take place, construction activities are generally

⁹ Florida Department of Environmental Protection. Best Management Practices for Golf Course Maintenance Departments. May, 1995. Last viewed online 2/6/06 at <http://www.dep.state.fl.us/water/nonpoint/docs/nonpoint/golfbmp.pdf>.

performed by an outside contractor. In most instances, road *rehabilitation* is much more relevant. This study revealed that when road and bridge rehabilitation takes place, the majority of departments are currently employing BMPs in erosion and sediment control to a far greater degree than they ever have in the past.

In rural areas, particularly near the headwaters of the creeks (Wyoming County, Genesee County) where development is not occurring at a rapid pace, opportunities for highway departments to impact non-point sources of pollution are confined to three general areas: road deicing, ditch/stormwater conveyance maintenance, and other right-of-way maintenance activities. Along with these three basic areas, suburban municipalities in the northern portion of the study area are more likely to deal with issues associated with pre- and post- construction stormwater runoff in their daily operations. As a result, highway departments near the Rochester Metropolitan Area were aware of applicable regulations and procedures associated with Phase II Stormwater regulations, including several municipalities that are not currently considered to be regulated MS4 communities.

Overall, town and village highway supervisors and department of public works superintendents are well-informed regarding basic erosion and sediment control practices and procedures. This should come as no surprise given that the majority of these administrators have a wide range of practical experience in areas of basic engineering, construction and land alteration. Furthermore, popular annual educational seminars such as the Cornell Local Roads Program (often referred to as “highway school”) have had a lasting impact on this community of professionals. Other locally-administered training programs have a similar effect, two of which have been highlighted below.

While highway and DPW managers tend to be adept in the area of erosion and sediment control, the emerging regulations associated with the Phase II Stormwater program have made it necessary to increase efforts in information dissemination regarding new rules and regulations, not to mention technical advances in the fields of erosion and sediment control and non-point source abatement. Even with the advances brought about through the Phase II program, local budget constraints will likely be the greatest factor in implementing stormwater erosion and sediment control best management practices. To this end, inter-agency cooperation and sharing of services can provide significant benefit.

➤ Model Best Management Practice: Monroe County SWCD Highway Staff Education Efforts

The Monroe County SWCD in conjunction with the Monroe County Health Department and Stormwater Coalition of Monroe County coordinated an effort to provide information to county highway staff regarding roadway stormwater best management practices. This effort was funded through a grant by the Great Lakes Basin Program for Erosion and Sediment Control (the same program that has provided funding for the *Controlling Sediment in the Black and Oatka Creek Watersheds* project). As described in a department press release, the goals of the project included:

1. Developing a roadway operation and maintenance program to reduce water pollution by sediment, phosphorus, and chlorides via runoff from roadways within the Rochester Embayment of Lake Ontario.
2. Identifying priority roadway operation and maintenance best management practices that protect water quality.
3. Training municipal staff to implement these best management practices.
4. Assisting municipalities to meet the requirements of the Phase II Stormwater regulations.

Furthermore:

Three recommendation lists of feasible, effective, and accepted roadway operation and maintenance Best management practices (BMPs) were developed for winter roadway, non-winter roadway and roadside drainage system operation and maintenance practices. Information for these lists was obtained from sources including the U.S. Environmental Protection Agency, the New York State Department of Environmental Conservation, and the American Public Works Association.

Other aspects of the program covered information related to salt storage and application, stormwater facility management and tools for further staff self-training and information dissemination.

➤ Model Best Management Practice: Wyoming County Blue Book Dissemination

In similar fashion, the Wyoming County SWCD will provide municipal highway officials and DPW departments with the latest iteration of the *NYS Standards and Specifications for Erosion and Sediment Control* manual (a.k.a. the “Blue Book”) in the spring of 2006. Originally published in 1972 and distributed by the Empire State Chapter of the Soil and Water Conservation Society, this technical manual was recently updated and outlines the latest procedures to protect water quality due to construction activity and reduce sediment damage and associated maintenance costs of road ditches, storm sewers, streams, lakes, and flood control structures.

A NYS Soil and Water Committee grant will allow for the inexpensive distribution of copies of the manual to all highway officials in the county. In conjunction with the distribution, SWCD professionals will host a workshop to explain the contents of the manual, thereby increasing the likelihood that it will be referenced by officials when working in the field. Local highway administrators will therefore have an opportunity to ask specific questions regarding the contents of the manual, applicable rules in stormwater regulations, and the latest developments in the construction and design of stormwater facilities.

➤ Model Best Management Practice: Highway Superintendent Road and Water Quality Handbook

The *Highway Superintendent Road & Water Quality Handbook* was prepared by Cornell Cooperative Extension of Steuben County, Natural Resources Conservation Service of Steuben County, Steuben County Soil and Water Conservation District, and the Yates County Soil and

Water Conservation District. Currently in its second edition, the handbook is yet another excellent example of proactive education and outreach by local environmental stewards. Quoting the handbook's preface:

The *Highway Superintendents Road and Water Quality Handbook* was a multi-agency project designed to assist local Highway Superintendents in the permit process associated with activities that may impact local and regional water quality...Becoming familiar with the permitting processes and technical information concerning water-related impacts associated with roadway construction and maintenance should help reduce uncertainties and frustrations encountered by local highway superintendents.

The manual is broken down into three sections: Section I covers permit-related documentation and processes; Section II covers a wide variety of road construction and maintenance activities such as BMP implementation; and Section III provides a listing of agencies that can provide additional information or technical assistance on the range of topics covered in previous sections. Much of the information contained within the manual can be very difficult to find; this resource therefore provides local highway officials with a single, comprehensive reference guide pertaining to a wide variety of issues related to stormwater management.

Section 6: Onsite Wastewater Treatment Systems (OWTS)

The primary governing statute regulating onsite wastewater treatment systems (commonly referred to as septic systems) in New York State is Part 75 of the Department of Health (DOH) Administrative Rules and Regulations (10NYCRR 75). These regulations stipulate the minimum requirements for the construction and specifications for *new systems only*. There is currently no state code addressing the maintenance or inspection of existing OWTS. To this end, county and local governments are given authority under Sections 347 and 308 of NYS Public Health Law to enact ordinances and regulations for the protection of public health. Such ordinances must be at least as restrictive as the state law that grants the authority unless a specific waiver is granted by the NYS Commissioner of Health.¹⁰

Within the study area, basic codes regulating OWTS are in place; however, none of these codes regulate inspections at a frequency deemed adequate to detect failures within such systems (determined to be approximately every 3-7 years). Inspections of septic systems within the Black and Oatka Creek watersheds occur at the time of new building construction, during alterations and/or expansions of an existing system and, in most cases, at the time of property transfer. Inspections can also occur if failures become evident or when specific complaints are lodged by the public.

Failing onsite wastewater treatment systems are cited as a known impairment to water quality throughout both watersheds in the *2001 Genesee River Basin Waterbody Inventory and Priority*

¹⁰ Allee, David J. *et al.* [A Guide to the Public Management of Private Septic Systems](#). Ithaca: NYS College of Agriculture and Life Sciences, 2001. Last viewed online 2/28/06 at: http://www.cardi.cornell.edu/local_government/000397.php.

*Waterbodies List.*¹¹ While it is clear that failing OWTS have been adversely affecting water quality within the two watersheds for some time, most municipalities are not necessarily in a position to begin inspection and maintenance programs given the costs associated therein. Furthermore, many households would face significant financial hardship if forced to absorb the costs associated with upgrading or replacing their systems in the absence of a financial support mechanism. Nonetheless, innovative approaches to addressing failing OWTS have been developed and implemented across NYS. One useful county model has been highlighted below. Other approaches developed at municipal and regional levels can be found in the Cornell University publication *A Guide to the Public Management of Private Septic Systems*, which is referenced below.

Table 4-1: Regulations Regarding OWTS Inspection within Black and Oatka Watershed Counties

	DOH Inspection for new construction	DOH Inspection for repairs/expansions/alterations*	DOH Inspection at time of property transfer or refinancing	Municipal laws exceeding county requirements (within the study area)?
Genesee	Yes	Yes	Yes**	None
Livingston	Yes	Yes	Yes	None
Monroe	Yes	Yes	Recommended	None
Orleans	Yes	Yes	Upon Request**	None
Wyoming	Yes	Yes	Yes	None

* Specific circumstances vary by county

** For refinancing, inspections are typically performed upon request from the lending institution

➡ Model Best Management Practice: Cayuga County Sanitary Code

The *Cayuga County Sanitary Code* is perhaps the most comprehensive county approach to addressing failing OWTS in NYS. Revised in 1994, the code was developed out of concern for water quality in two popular bodies of water – Little Sodus Bay (Lake Ontario) and Owasco Lake (one of the Finger Lakes). The code focuses on two specific areas: new system design and existing system inspection. As explained in *A Guide to the Public Management of Private Septic Systems*:

A major emphasis of the county sanitary code ensures that design work for residential wastewater treatment systems meets high standards. In accord with the state sanitary code, the county code requires that licensed engineers must design septic systems for new dwellings...[D]esigns must be submitted to the county DOH for review, suggested or required changes, and final approval.¹²

Furthermore, the code sets a schedule for mandatory inspections to occur throughout the county, depending upon location. Residential systems within sensitive environmental areas are required to be inspected every two years. For the rest of the county, the code establishes a five year

¹¹ New York State Department of Environmental Conservation. *The 2001 Genesee River Basin Waterbody Inventory and Priority Waterbodies List*. Albany: DEC, March 2003.

¹² Allee, David J. *A Guide to the Public Management of Private Septic Systems*. Ch. VII-4.

rotating inspection cycle. Inspections must also occur at time of property transfer and/or refinancing.¹³

This rigorous inspection cycle is an excellent means of ensuring that problems with residential OWTS have the potential to be identified within a reasonable and prudent time period before serious problems can develop.

¹³ Cayuga County. Sanitary Code of the Cayuga County Health Department. August 1994. Last viewed online 2/28/06 at: <http://www.co.cayuga.ny.us/wqma/projects/sanitarycode.pdf>.