



Procedure 4: Alternative Practices

Buffer Law Implementation

June 28, 2017

This document was adopted by the Board of Water and Soil Resources (BWSR) pursuant to Minn. Stat. §103F.48, subd. 3(b) to describe how alternative practices can be used to comply with the requirements of this section. It is a guide; not a rule. It is not a statement of general applicability and future effect. It is not designed to amend statute. Statutes are subject to change and if the language of this procedure differs from statute, the statute controls. In addition, users of the document are encouraged to obtain legal advice of an attorney regarding their specific application of Minn. Stat. §103F.48 and their own legal authorities.

Procedure

Assessments of the water quality benefit provided by an alternative riparian water quality practice(s) for compliance with the water resources riparian protection requirements of Minn. Stat. §103F.48 must be applied to each parcel and must:

Achieve the required water quality benefit via: (a) documentation of the assessment method used; (b) a map or diagram of the practices; and (c) documentation that the water quality protection is comparable to a buffer for the water resource it abuts.

Water quality protection comparable to a buffer means that the alternative practice(s) proposed or implemented:

1. treats all water running off of a parcel which would otherwise be treated by a Minn. Stat. §103F.48 prescribed buffer prior to entering a waterbody identified on the Buffer Protection Map.
2. demonstrates treatment or protections from erosion and runoff pollution, including suspended solids, sediment and sediment associated constituents at least equivalent to that which the buffer would provide; and
3. considers the stability of soils, shores and banks.

Background

Minn. Stat. §103F.48, the Buffer Law, includes the following purposes:

- (1) protect state water resources from erosion and runoff pollution;
- (2) stabilize soils, shores, and banks; and
- (3) protect or provide riparian corridors.

The Buffer Law allows use of alternative practices approved by the BWSR or soil and water conservation districts (SWCD) on agricultural lands which provide comparable water quality benefit to that of a buffer as provided below:

(b) A landowner owning property adjacent to a water body identified in a buffer protection map and whose property is used for cultivation farming may meet the requirements under paragraph (a) by adopting an alternative riparian water quality practice, or combination of structural, vegetative, and management practices, based on the Natural Resources Conservation Service Field Office Technical Guide,

common alternative practices adopted and published by the board, or other practices approved by the board, or practices based on local conditions approved by the local soil and water conservation district that are consistent with the Field Office Technical Guide, that provide water quality protection comparable to the buffer protection for the water body that the property abuts. Included in these practices are retention ponds and alternative measures that prevent overland flow to the water resource.

A buffer, as described in the Natural Resources Conservation Service (NRCS) Field Office Technical Guide, provides treatment along the entire frontage of a water body where overland flows move towards the water body. Buffers may also provide a surface water protection setback for application of pesticides and crop nutrients based on specific product label best management practices. In addition, a buffer's established root structure can provide shore and bank soil stability.

Program Need

- 1) Local governments and landowners need a consistent basis for determining "comparable water quality benefit" including the scale at which these benefits will be assessed.
- 2) Landowners need a process for consideration of proposed/implemented alternative practice(s) to be validated by the SWCD per Minn. Stat. §103F.48, subd. 3(d).
- 3) SWCDs and local governments need to validate the sufficiency of the alternative practices should corrective actions be needed.

Statutory Basis

- Minn. Stat. §103F.48, subd. 3(b). Water Resource protection requirements