



Procedure 5: Other Alternative Practices Approved by the Board

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 BWSR will approve “other” alternative practices that can be used by landowners 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

Alternative practices which do not exist within the Natural Resources Conservation Service (NRCS) Field Office Technical Guide will be considered for use as a practice statewide as follows:

1. Via a proposal form provided by BWSR, for the purposes of evaluating:
 - a. whether the proposed practices to provide comparable water quality protection; and
 - b. whether the proposed methods provide adequate evidence that comparable water quality protections will be achieved.
2. Within 90 days of receiving a completed proposal form, the BWSR Executive Director will convene a technical advisory team to review the proposal for the purposes of developing a recommendation to the BWSR Buffers, Soils and Drainage Committee.
3. The technical advisory team may include staff representation from the following agencies:
 - a. Board of Water and Soil Resources
 - b. Minnesota Department of Natural Resources
 - c. Minnesota Pollution Control Agency
 - d. Minnesota Department of Health
 - e. Minnesota Department of Agriculture
 - f. University of Minnesota
 - g. United States Department of Agriculture – NRCS

The BWSR Executive Director may invite other experts to participate or provide input.

4. The BWSR Board will consider a recommendation from the Buffers, Soils and Drainage Committee for inclusion of the practice(s) or method(s) as a Board-approved alternative water quality practice within 90 days of a Committee recommendation.

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 BWSR on property which is used for cultivation farming and provide comparable water quality benefit to that of a buffer as follows:

(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.

Program Need:

- 1) Local governments, other interested parties and BWSR need a process for BWSR consideration of alternative water quality practice(s) not found in the NRCS Field Office Technical Guide so they may be used as an alternative to the standard buffer widths.

Statutory Basis

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