



Procedure 6: Local Water Resources Riparian Protection ("Other Watercourses")

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. 4 to describe how soil and water conservation districts should develop a summary of watercourses for submission to the local water management authority. 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

Each soil and water conservation district (SWCD) are recommended to take the following steps to develop, adopt and submit the other watercourses to the local water management authority:

1. Consult with the local water management authorities within its jurisdiction.
2. Consider watershed data, water quality and land use information.
3. Assess the water quality benefits that buffers or alternative practices could provide to local water resources that were not included on the Buffer Protection Map.
4. Prepare a rationale for inclusion or exclusion of waters that were not included on the Buffer Protection Map prior to local adoption of the summary of watercourses.
5. Adopt a resolution by the SWCD Board establishing the summary of watercourses in map or list form and submit it to all local water management authorities within their jurisdiction and to BWSR by July 1, 2017.

Background

The Buffer Law requires buffers or alternative practices to provide riparian protection for public waters and public drainage systems as identified on the Buffer Protection Maps. The Buffer Law recognizes that 'other watercourses' which are not found on the DNR Buffer Protection Map may benefit from installation of buffers or alternative practices to protect or improve water quality. It also establishes a process for SWCDs to initiate a local water resources riparian protection process that is then incorporated in local water management plans by local water management authorities.

Minn. Stat. §103F.48, subd. 4. establishes a two-step sequential process as follows:

1. *In consultation with local water management authorities, on or before July 1, 2017, **the soil and water conservation district** shall develop, adopt, and submit to each local water management authority within its boundary a summary of watercourses for inclusion in the local water management authority's plan.*
2. *A **local water management authority** that receives a summary of watercourses identified under this subdivision must incorporate an addendum to its comprehensive local water management plan or comprehensive watershed management plan to include the soil and water conservation district recommendations by July 1, 2018. The incorporation of the summary of watercourses provided by the soil and water conservation district does not require a plan amendment as long as a copy of the included information is distributed to all agencies, organizations, and individuals required to receive a copy of the*

plan changes. A local water management authority that receives a summary of watercourses identified under this subdivision must address implementation of the soil and water conservation district recommendations when revising its comprehensive local water management plan as part of a regularly scheduled update to its comprehensive local water management plan or development of a comprehensive watershed management plan under section 103B.801.

Program Need:

- 1) To provide assurance that the SWCD summary of watercourses (aka “other watercourses”) that a local water management authority must incorporate into their plan is developed in a systematic and rational manner, based on watershed data, water quality, and land use information.
- 2) The local water management authority needs these assurances to sustain the credibility of their state-approved local water management plan when they seek state funds or pursue other endeavors that have a prerequisite of a state-approved local water management plan.

Statutory Basis

- Minn. Stat. §103F.48, subd. 4. Other watercourses
- Minn. Stat. §103F.48, subd. 6. Local implementation and assistance
- Minn. Stat. §103F.48, subd. 8. Funding subject to withholding
- Minn. Stat. Chapters 103B, 103D. Water plan review and approval elements