



BOARD ORDER

FY26 Manure Management Program

PURPOSE

Authorize FY 26 Manure Management Program and delegate award decisions to staff

RECITALS /FINDINGS OF FACT

- A. The Laws of Minnesota 2024, Chapter 116, Article 1, Section 4, Subdivision 2, appropriated \$850,000 for manure management activities that reduce greenhouse gas emissions and protect groundwater. Of which, up to \$807,500 is available for grants.
- B. Priority for using these funds must be given to areas with high vulnerability to groundwater nitrate levels or geology conducive to groundwater pollution, such as those shown on the Department of Agriculture's vulnerable groundwater area map.
- C. The Board has authority under this appropriation and Minnesota Statutes §103B.101, subd. 9 to award grants and enter into agreements to carry out programs and other responsibilities prescribed or allowed by statute.
- D. The Grants Program and Policy Committee, at their October 13, 2025 meeting, reviewed the ranking criteria and draft board order and recommended approval of this Order to the Board.

ORDER

The Board hereby:

- 1. Authorizes staff to use the scoring criteria identified in Table 1 to develop and issue the FY26 Request for Proposal (RFP) and other program support documents for the FY26 Manure Management Program.
- 2. Delegates authority to staff to approve Manure Management awards from appropriated funds based on responses to the RFP and funds available.
- 3. Authorizes staff to complete all pre-agreement processes and enter into agreements for these purposes.
- 4. Authorizes staff to redistribute funds that are returned consistent with the provisions of the RFP.
- 5. Directs staff to report to the Board on the status of Manure Management awards

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Todd Holman, Chair
Board of Water and Soil Resources

Date: 10/22/2025

TABLE 1

<i>Ranking Criteria for Manure Management</i>	<i>Maximum Points Possible</i>
<u>Project Abstract</u> : Clearly describes the project and the expected project results.	5
<u>Prioritization (Relationship to Plan)</u> : The proposal is based on priority groundwater protection actions listed in a water management plan and other related plans.	10
<u>Targeting</u> : The proposal is in an area with high groundwater nitrate levels or where the geology is conducive to groundwater pollution and in priority drinking water protection areas as described in the question.	30
<u>Project Impact</u> : The proposed activities will enhance groundwater protection and/or reduce greenhouse gases associated with agriculture. The project will have a positive public outcome; improving access to healthy drinking water for all individuals.	35
<u>Project Rationale and Readiness</u> : The proposal describes the need and readiness for the project and other approaches considered to meet the project purpose. It also has a set of specific activities that can be implemented soon after the grant is awarded.	20
<i>Total Points Available</i>	<i>100</i>

BOARD ORDER**Buffer Procedures - Draft Revisions Update: Authorizing Public Review and Comment****PURPOSE**

To direct staff to solicit public comments on proposed Buffer Procedure revisions via posting in the State Register.

FINDINGS OF FACT / RECITALS

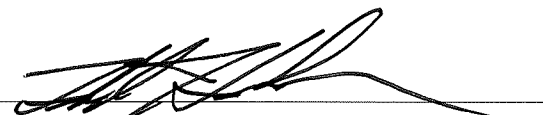
- A. Minnesota Statutes Section 103F.48 establishes a riparian protection and water quality practices program, commonly referred to as the Buffer Law
- B. The Board of Water and Soil Resources (Board) has the responsibility to oversee the provisions of Minnesota Statute 103F.48.
- C. Board Resolution #17-62 adopted the following buffer procedures;
 - a. Procedure 1. Buffer Compliance Determinations
 - b. Procedure 2. Buffer Law Reporting and Progress Tracking
 - c. Procedure 3. MS4 Exemption
 - d. Procedure 4. Alternative Practices Implementation
 - e. Procedure 5. Alternative Practices Approved by the Board
 - f. Procedure 6. Local Water Resources Riparian Protection (Other Watercourses)
 - g. Procedure 7. Non-Implementation
 - h. Procedure 8. Election of Jurisdiction
 - i. Procedure 9. BWSR's Review of County and Watershed District Buffer Rules, Ordinances, and Official Control.
- D. Minnesota Statutes Section 103F.48, Subd 1(J) was revised in 2024 to expand the definition of "*With Jurisdiction*," which means "*a board determination that the county or watershed district has adopted and is implementing a rule, ordinance, or official controls providing procedures for the issuance of administrative penalty orders, enforcement, and appeals for purposes of this section and section 103B.101. This determination is revocable by board action if the adoption and implementation of rule, ordinance, or official controls are not in compliance with the requirements of this section or board-adopted procedures.*"
- E. Staff have reviewed the existing buffer procedures to ensure they align with current Minnesota Statutes Section 103F.48 and to update as needed to ensure SWCDs, Counties, Watershed Districts and BWSR staff have sufficient clarity and direction to continue implementing and enforcing the law.
- F. The Buffer Soils and Drainage Committee, at their October 10, 2025, meeting reviewed the draft buffer program procedures.

ORDER

The Board hereby:

1. Authorizes staff to publish a request for public comment on the revised draft procedures packet and structure, as attached to this resolution, in the State Register.
2. Directs staff to review and evaluate comments received through the public notice and to bring back any suggested revisions for Board consideration.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



Todd Holman, Chair
Board of Water and Soil Resources

Date: 10/22/2025

Attachment: Draft Buffer Procedures Packet

Introduction

Purpose of Buffer Procedures

The Minnesota Board of Water and Soil Resources (BWSR) Board Adopted Buffer Procedures serve as the foundational framework for implementing the state's Buffer Law. The Buffer Law requires landowners to establish and maintain perennial vegetation buffers along public waters and drainage ditches or to implement an approved alternative practice that provides water quality protection comparable to a buffer. The purpose of the law is to establish riparian buffers and water quality practices to:

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

While the law establishes a clear statewide mandate, a consistent and uniform approach was needed to ensure effective and ongoing implementation across Minnesota's diverse landscapes and communities. To support this need, the BWSR Board adopted these Buffer Procedures to provide that critical understanding of expectations and consistency. These procedures provide a clear, standardized set of guidelines for local government units.

- **Soil and Water Conservation Districts (SWCDs)**—to use when working with landowners. By defining specific methods for measuring buffer widths, verifying compliance, and documenting alternative conservation practices, the procedures help eliminate ambiguity and provide a clear roadmap for all parties involved.
- **Counties and Watershed Districts** – for counties and watershed districts that choose to assume enforcement authority, the procedures outline provisions for determining consistent and adequate implementation of the law. This ensures uniform compliance and enforcement across jurisdictions.

The procedures are arranged as a series of chapters that are specific to various aspects of implementation and the enforcement process. It's important to note that while the procedures are organized into separate chapters, there is some overlap between them. Individual procedures may not function independently and should be understood within the broader context provided by the entire set of procedures.

These procedures were adopted by the Board of Water and Soil Resources (BWSR) pursuant to Minnesota Statute [§103F.48](#) to determine compliance. Statutes are subject to change, and if the language of this procedure differs from statute, we defer to statutory guidance.

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Promoting Collaboration and Conservation

The BWSR Board Adopted Buffer Procedures serve not just as a regulatory manual but a tool for collaboration. They were designed to facilitate a partnership between state agencies, local governments, and landowners. By providing clarity and consistency, the procedures enable staff to have productive conversations with landowners and local staff, offering technical assistance and resources to help them achieve compliance and ensure timely and effective enforcement. This clear framework promotes trust and a shared sense of responsibility for protecting Minnesota's invaluable water resources. In doing so, it ensures that the benefits of the Buffer Law are realized now and maintained into the future.

Procedure 1: Election of Jurisdiction

The water resources riparian protection requirements of the buffer law are related to the buffer provisions of the Public Drainage Law ([Minnesota Laws, Chapter 103E](#)) and state shoreland management standards. Counties and watershed districts serve as drainage authorities and counties locally administer the shoreland management program.

This procedure is used to determine which LGU has the initial authority to elect jurisdiction for public waters and public drainage ditches. Landowners, local governments, and BWSR need clear and comprehensive guidance for enforcement of the buffer law to ensure consistency in application of the law statewide, and to easily identify which LGU has enforcement authority in cases where corrective actions are needed.

When jurisdictional boundaries overlap, local governments units (LGUs) are encouraged to discuss and resolve which water bodies subject to the buffer law are being elected within each entity's boundary.

Procedure:

To provide orderly administration of statutory responsibilities, the following provisions are required for counties and watershed districts electing jurisdiction via a resolution or other formal decision for enforcement of the buffer law.

Counties

When a **county** elects jurisdiction, it must:

1. include all public waters within its boundary that require a minimum 50-foot average, 30-foot minimum width buffer, as identified on the Buffer Protection Map
2. include all public drainage ditches within its boundary that require a 16.5-foot width buffer, as identified on the [Buffer Protection Map](#) for which it is wholly or jointly the drainage authority¹.

A county may also elect jurisdiction on all public drainage ditches identified on the Buffer Protection Map within its boundary for which it is not the drainage authority, if the watershed district acting as the drainage authority does not elect jurisdiction.

The county must provide a notice to BWSR and to all watershed districts and soil and water conservation districts within its boundary at minimum 60 days prior to the effective date of its decision to elect jurisdiction.

¹ See Minnesota statute §103F.201 to 103F.227, and Chapter 103E.

Watershed Districts

When a **watershed district** elects jurisdiction, it must: include all public drainage ditches within its boundary that require a 16.5-foot width buffer, as identified on the [Buffer Protection Map](#), for which it is the drainage authority².

A watershed district may elect jurisdiction on all public waters identified on the Buffer Protection Map within its boundary, if the county does not. A watershed district may also elect jurisdiction on all public drainage ditches identified on the Buffer Protection Map within its boundary for which it is not the drainage authority if the county acting as the drainage authority does not.

The watershed district must provide a notice at minimum 60 days prior to the effective date of its decision to BWSR and to all counties and soil and water conservation districts within its boundary.

Notification

Counties and watershed districts must submit to BWSR a copy of the rule, ordinance, or official control, consistent with Board Procedure on Review of County and Watershed District Buffer Rules, Ordinance, and Official Controls; BWSR staff will make a determination of adequacy within 60 days of receipt.

Change in Previous Election

A county or watershed district may change a previous election of jurisdiction by providing notice through a resolution or other formal decision to BWSR, all counties, all soil and water conservation districts, and all watershed districts within its boundary at least 60 days prior to the effective date of the decision.

Should a change in jurisdiction occur, the following steps are recommended to ensure a smooth transition of enforcement authority:

1. A county or watershed district that elects to discontinue jurisdiction should provide all records related to compliance and enforcement of Minnesota statute §[103F.48](#) to BWSR prior to the effective date of the change in election.
2. BWSR should provide all records related to compliance and enforcement of Minnesota Statute §[103F.48](#) to a county or watershed district that elects jurisdiction prior to the effective date of the change in election.
3. Riparian Protection Aid funds received from the Department of Revenue should be redistributed proportionally to the enforcement authorities with jurisdiction.

² see Chapter 103E

If a county or WD re-elects jurisdiction the board may consider past performance during its review to determine if the county or WD can again be with jurisdiction.

Statutory References:

- Public Drainage Law: Chapter [103E](#)
- Shoreland Management M.S. [§103F.201](#) to [103F.227](#)
- Water resource protection requirements on public waters and public drainage systems: M.S. [§103F.48](#), subd. 3, paragraph (b)
- Local implementation and assistance: M.S. [§103F.48](#), subd. 6.
- Joint exercise of powers: M.S. [§471.59](#).
- Riparian Protection Aid: M.S. [§477A.21](#)

Procedure 2: BWSR's Review of Buffer Rules, Ordinances, and Official Controls

A county or watershed district may elect to exercise its jurisdiction to enforce the water resources riparian protection requirements. Pursuant to Minnesota Statute §103F.48, subd. 1(j) and subd. 7(c), a county or watershed district must submit their rule, ordinance, or other official control to BWSR to comply with the legislative requirements.

Providing clarity in how BWSR reviews rules, ordinances, or other official controls used to carry out the compliance provisions of the buffer law will help with statewide consistent application of the buffer law. This procedure also provides an expected timeline for the review, and what to expect if official controls are not sufficient in order to make corrections.

Procedure:

County and watershed district buffer rules, ordinances and official controls will be reviewed by BWSR as provided below:

1. BWSR staff will review the enforcement and appeals procedures of county and watershed district rules, ordinances, or other official controls to determine if they contain adequate provisions to ensure compliance and effective enforcement of the riparian buffer law.
 - a. If the county or watershed official controls propose using administrative penalty order (APO) authority³ as the enforcement mechanism, BWSR will also evaluate whether the county or watershed district APO plan is consistent with the plan adopted by BWSR.
 - b. The adequacy and/or consistency review of official controls will be completed within 60 days of receipt unless mutually extended.
 - c. BWSR will send the adequacy and/or consistency determination to the county or watershed district electronically.
2. Counties and watershed districts that elect to exercise their jurisdiction must submit the following information to BWSR at least 60 days prior to the effective date of the rule, ordinance, or other official control which includes:
 - i. The resolution or other formal decision of the county or watershed district governing body documenting adoption of the official control
 - ii. The official control adopted by the county or watershed district governing body
 - iii. A document that describes how the official control departs from the model ordinance or rule developed by BWSR (if applicable)

³ Minnesota Statute §103B.101, subdivision 12a

Failure to provide the required information will result in a determination by BWSR that the rule, ordinance, or other official control does not contain adequate provisions to ensure compliance and effective enforcement of the law.

A county or watershed district may vary the procedures outlined in the APO Plan on the [BWSR Enforcement Page](#) pertaining to the penalty amount and interval of recurrence to the extent it is consistent with Part A of BWSR's APO Plan. The submission of an APO Plan with changes from the BWSR APO Plan should include adequate justification and be based on considerations that include the extent, gravity, and willfulness of the noncompliance.

Any change from a prior adopted official control must be submitted to BWSR at least 60 days prior to the effective date of the change.

The option of a county or watershed district to modify or delegate a previous election of jurisdiction and the adoption an official control will follow the same review as provided above.

Local Government Implementation and Enforcement Options:

Each county and watershed district should consult with their legal counsel in preparing and adopting rules, ordinances, or other official controls for local enforcement of the water resources riparian protection requirements of Minnesota Statute [§103F.48](#).

Counties and watershed districts that decide to elect jurisdiction have several enforcement options:

- Adopt BWSR's Model County Buffer Ordinance or Rule with no or only non-substantive changes
- Adopt BWSR's Model County Buffer Ordinance or Rule with revisions that allow for local priorities that are at least as restrictive as those in M.S. §103F.48
- Incorporate the water resources riparian protection requirements of M.S. §103F.48 into an existing local ordinance, rule, or other official control
- Use the APO authority⁴ and adopt a standalone local APO plan as an official control or with one of the above options
- Implement other options that are available to counties and watershed districts in statute

Compliance Determinations

Local units of government are encouraged to consult with BWSR staff throughout the process to assist in the development of local enforcement provisions consistent with the water resources riparian protection requirements of Minnesota law.

⁴ granted in M.S. [§103B.101, subd. 12a](#)

All decisions will be based on a standard of review that ensures equitable compliance provisions are in place. If the initial determination is that a county or watershed district lacks adequate controls to ensure compliance, BWSR staff will assist that local unit of government in addressing the necessary measures to change the initial determination and achieve compliance.

Enforcement and Penalty Procedures for Noncompliance

BWSR has the statutory responsibility to determine whether local government units that elect jurisdiction have official controls that contain adequate provisions to ensure compliance and effective enforcement of the Riparian Protection and Water Quality Practices of Minnesota Statute.

Statutory References:

- Definitions: M.S. [§103F.48, subd. 1](#)
- Local implementation and assistance: M.S. [§103F.48, subd. 6](#).
- Corrective Actions: M.S. [§103F.48, subd. 7](#)
- Appeals and validations and penalty orders: M.S. [§103F.48, subd. 9](#)
- Authority to issue penalty orders: M.S. [§103B.101, subd. 12a](#)
- Corrective actions: M.S. [§103B.102, subd. 4](#).

Procedure 3: SWCD Determination of Buffer Compliance Status

Landowners of parcels adjacent to a water body identified on the Department of Natural Resources' [Buffer Protection Map](#) are required to establish and maintain a perennially-vegetated buffer or an approved alternative practice. Having a consistent framework for compliance reviews of these requirements helps landowners understand the expectations of the buffer law. It also provides a consistent framework for SWCDs, counties, watershed districts, and BWSR for determining compliance on buffer application and alternative practices.

SWCDs must provide planning and technical assistance to landowners, implementation of approved alternative practices, and tracking progress.⁵

A consistent process provides a framework for tracking compliance so that reporting expectations of local governments aren't arbitrary.

Procedure:

Reviews will be done by utilizing various means, including to site visits, aerial photography, websites with imagery, drive-bys, and drones. Compliance reviews will conform with the following provisions:

1. Compliance status will be determined and tracked on a parcel-by-parcel basis as identified by a unique, locally-defined property identification number or description.
2. Each bank or edge of a water body within an individual parcel will be reviewed independently.
3. The SWCD will verify and approve alternative practices.

Statutory References:

- Water Resource protection requirements: M.S. [§103F.48, subd. 3](#)
- Local implementation and assistance: M.S. [§103F.48, subd. 6](#)
- Withholding funding: M.S. [§103F.48, subd. 8](#)

⁵ Minn. Stat. [103F.48, subd. 6](#)

Procedure 4: SWCD Reporting and Compliance Monitoring

SWCDs are required to provide reporting to BWSR to ensure they are tracking progress towards compliance. Landowners also need assurance of consistent and equitable enforcement of the Buffer Law.

SWCDs need to systematically collect information regarding compliance that can be used to assure implementation and documentation for enforcement as needed. Additionally, BWSR needs a basis for withholding funds from a SWCD that fails to implement the law or board-adopted procedures.

Procedure:

SWCDs are required to adopt a monitoring plan and post the plan on its website. The plan must include the following minimum requirements:

- Ongoing compliance tracking of all parcels subject to the Buffer Law, at least once every three years.
- How to respond to landowner requests for validations of compliance.
- Random spot checks of parcels that will be conducted in addition to tracking all parcels.
- Guidance for responding to complaints of noncompliance in a timely fashion.

SWCDs must update progress tracking by June 1 and December 1 of all parcels that have been assessed, reviewed, or that have changed status since the prior reporting deadline in one of the following formats :

- Buffer Compliance and Tracking Tool (BuffCAT)
- GIS shapefile in a format prescribed by BWSR

Statutory References

- Local implementation and assistance: M.S. [§103F.48, subd. 6](#)
- Withholding funding: M.S. [§103F.48, subd. 8](#)

Procedure 5: Municipal Separate Storm Sewer System (MS4) Exemption

National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) program municipal separate storm sewer system (MS4) permittees are not required to take any action regarding this exemption.

As it relates to the buffer law, it is important for landowners to know if the MS4 permittee has or is planning an infrastructure project with water quality protection comparable to the buffer protection for their parcel. The MS4 permittee also needs to know that they may be able to help landowners with cultivated lands achieve eligibility for an exemption from the buffer law requirements by accomplishing a project with comparable water quality protection. SWCDs need to know – for progress tracking and compliance validation – if an infrastructure project with water quality protection comparable to a buffer for a parcel is being provided by the MS4 permittee.

Procedure:

Minnesota Statute [§103F.48, subd. 5\(4\)](#) authorizes an exemption for land regulated by a NPDES/SDS permit under Minnesota Rules, [Chapter 7090](#) and provides water resources riparian protection, in any of the following categories:

1. Municipal separate system sewer system (MS4)
2. Construction storm water (CSW)
3. Industrial storm water (ISW)

Actions that meet the “water resources riparian protection” provision include:

1. Perennially rooted vegetation as prescribed in M.S. [§103F.48, subdivision 3](#), paragraph (a)
2. Alternative riparian water quality practices as prescribed in M.S. [§103F.48, subdivision 3](#), para. (b)
3. Projects with comparable water quality protection provided by MS4-managed or -sponsored infrastructure.

NPDES/SDS Program MS4 permittees that choose to take action to support this exemption should:

1. Have implemented a MS4 permittee sponsored project that provides water quality protection comparable to a buffer for the parcel seeking the exemption
2. Provide evidence to the landowner and the respective soil and water conservation district (SWCD)

Statutory References:

- Exemptions: M.S. [§103F.48, subd. 5](#), sub-part (4)

Procedure 6: SWCD Alternative Practices Assessment and Determination

SWCDs play a critical role in the implementation of Minnesota’s Buffer Law. The law directs SWCDs to:

- Assist landowners with implementation
- Determine compliance
- Notify the appropriate enforcement authority of noncompliant parcels

A landowner may meet Buffer Law requirements by adopting an alternative practice specified in the Buffer Law. SWCDs must evaluate the water quality benefits of an alternative practice(s) on a parcel-by-parcel basis and issue a determination on compliance⁶.

Procedure:

For an SWCD to determine that an alternative practice provides water quality protection comparable to a buffer, the alternative practice(s) proposed or implemented must:

- Treat all water running off a parcel which would otherwise be treated by a M.S. [§103F.48](#) prescribed buffer prior to entering a waterbody identified on the Buffer Protection Map.
- Provide 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.
- Account for the stability of soils, shores, and banks.

SWCDs must also retain copies of these assessments. The SWCD should provide the landowner with documentation of the assessment and practice location maps for recordkeeping and implementation.

This procedure provides a consistent framework for SWCDs and landowners to determine whether alternative practices provide a “comparable water quality benefit” and to confirm whether those alternative practices meet riparian buffer standards.

⁶ Minn. Stat. [§103F.48, subd. 3\(d\)](#)

BWSR-Approved Alternative Practices for Common Landscape Settings

Documentation of alternative practices for a specific parcel shall utilize the following steps:

1. Confirm that the landscape setting and buffer requirement are consistent with a BWSR-approved Common Landscape alternative practice.
2. Include maps or diagrams showing runoff patterns and locations of the practices, confirming all water that would be treated by a buffer is addressed.
3. Evaluate soil, shoreline, and bank stability to ensure the long-term sustainability of the alternative practice.
4. Confirm that the practice(s) align with BWSR's approved conditions.

SWCD-Approved Alternative Practices Based on Local Site-Specific Landscape Conditions

1. Confirm that practices were completed as proposed.
2. Include maps or diagrams showing how runoff is managed, confirming all water otherwise treated by a buffer is addressed.
3. Evaluate soil, shoreline, and bank stability to ensure sustainability.
4. Confirm that the practice is consistent with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG) standards.
5. Identify the water quality assessment method used to determine water quality benefit and document results.

As part of fulfilling these statutory directives, SWCDs may, upon request by a landowner, issue a validation of compliance. The statutory responsibilities of SWCDs require them to determine whether a parcel is in compliance when requested by a landowner or as a part of tracking progress towards compliance. This validation may be issued if the buffer has been properly installed or if the SWCD determines that implemented alternative practices provide comparable water quality protections to a buffer.

Statutory References:

- Water Resource protection requirements: M.S. [§103F.48, subd. 3](#)
- Local implementation and assistance: M.S. [§103F.48, subd. 6](#)

Procedure 7: Other Alternative Practices Approved by the Board

To provide a consistent process for consideration of alternative water quality practices, this procedure describes how local governments, other interested parties, and BWSR consider alternative water quality practice(s) that differ from or are not found in the Natural Resources Conservation Service (NRCS) Field Office Technical Guide so they may potentially be used as an alternative to the standard vegetated buffer widths requirements.

Procedure:

Alternative practices that are different from the prescribed standard or do not exist in the NRCS Field Office Technical Guide can be considered for use as a practice statewide as follows:

1. Via a written request to BWSR, for the purposes of evaluating:
 - a. whether the proposed practices provide comparable water quality protection
 - b. whether the proposed methods provide adequate evidence that comparable water quality protections will be achieved
2. Within 60 days of receiving a request, the BWSR Executive Director or designee must review the proposal and supporting documentation and determine whether the proposal has technical merit and may be reviewed by a technical advisory team, or whether it should be denied.
3. If it has technical merit, the Executive Director may convene a technical advisory team to review the proposal which may include staff representation from the following agencies:
 - Board of Water and Soil Resources
 - Minnesota Department of Natural Resources
 - Minnesota Pollution Control Agency
 - Minnesota Department of Health
 - Minnesota Department of Agriculture
 - University of Minnesota
 - United States Department of Agriculture – NRCS

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

4. A technical advisory team shall report its determination on the proposal to the Buffers, Soils, and Drainage Committee which shall evaluate the report and make a recommendation to the BWSR Board.
5. The BWSR Board will consider the recommendation from the Buffers, Soils, and Drainage Committee and determine whether the practice(s) or method(s) will be included as a Board-approved alternative water quality practice.

Statutory References:

- Water Resource protection requirements: M.S. [§103F.48, subd. 3](#)

Procedure 8: Implementation of Jurisdictional Responsibilities

Minnesota Statutes, sections [103F.48](#) and [103B.101](#) set forth several requirements regarding implementation of the buffer law. Entities responsible for implementing these statutory requirements and the requirements contained within each entity's own official controls are encouraged to consult with their attorney should they have questions.

Local governments required to carry out their elected jurisdictional duties or that are considering whether to elect jurisdiction under the buffer law need to know what the expectations are for enforcing the requirements of the buffer law and board adopted procedures. To ensure that actions to bring about compliance are taken as soon as reasonably practical, and that applicable statute of limitations are not exceeded, a uniform set of timeline expectations for enforcement actions is needed to ensure compliance in a timely, predictable, and consistent manner. BWSR also needs to have a consistent basis for potential actions to withhold funding or to revoke jurisdiction.

Procedure:

The following actions are necessary to ensure timely and consistent application of the jurisdictional enforcement responsibilities elected under Minnesota statute §103F.48, the buffer law and board adopted procedures.

1. Following receipt of a Notice of Noncompliance (NON) from a soil and water conservation district (SWCD), the county or watershed district (WD) with jurisdiction over the noncompliant site must provide the landowner with a list of corrective actions to be taken to come into compliance and a practical timeline for doing so through the issuance of a Corrective Action Notice (CAN).
 - The CAN must be issued within 45 days from receipt of the NON.
 - The CAN must mandate compliance with conditions by a specific date that must be no later than 11 months from its issuance.
 - A copy of the CAN must be sent to BWSR as required by statute.
2. If the landowner does not comply with the conditions of the CAN, the county or WD must pursue compliance through enforcement mechanisms identified in its adopted ordinance or rule.
 - Enforcement must be pursued within 30 days following the landowner's failure to meet the deadline for compliance identified in the CAN through the issuance of the elected enforcement mechanism.
 - The county or WD must copy BWSR as required by statute on the enforcement documentation used to pursue compliance.

3. If after 6 months from the date the enforcement mechanism was issued the parcel remains noncompliant, the county or WD must initiate further actions to ensure the parcel is brought into compliance under the authorities of its adopted rules, ordinances, and official controls.
 - The county or WD must notify BWSR of its intended action and associated timelines.
 - The county or WD must periodically update BWSR on process and outcome.
4. If at any time following the receipt of a NON, the county or WD, individually or in consultation with the SWCD, determines a parcel to be compliant or that no further enforcement action is needed, it must provide notification to BWSR within 30 days of that determination. Notification to BWSR must include one of the following forms of compliance documentation:
 - Validation of compliance issued by the SWCD
 - A violation conclusion form issued by the enforcement entity as provided by BWSR

Statutory References:

- Definitions: M.S. [§103F.48, subd. 1](#)
- Corrective Actions: M.S. [§103F.48, subd. 7](#)

Procedure 9: Withholding Funds for Failure to Implement

Failure to implement the Buffer Law occurs when the Board of Water and Soil Resources determines that an SWCD or local water management authority has failed to implement one or more of the statutory duties listed under M.S. [§103F.48](#). BWSR needs to have a consistent basis for potential actions to withhold funding for a local government's insufficient implementation of statutory responsibilities. These statutory duties include the responsibilities outlined below.

Procedure:

Responsibilities of SWCDs

1. Evaluate compliance with the Buffer Law when requested by a landowner and issue a Validation of Compliance if applicable ([subd. 3\(d\)](#)).
2. Assist landowners with implementation of the Buffer Law including planning, technical assistance, implementation of approved alternative practices, and tracking progress towards compliance with the requirements provided ([subd. 6](#)).
3. Notify the county or watershed district with jurisdiction when it determines a landowner is not in compliance with the Buffer Law ([subd. 7](#)).
4. Notify the county or watershed district with jurisdiction and BWSR when it determines a landowner is out of compliance with the Buffer Law through the issuance of a Notice of Noncompliance (NON)([subd. 7](#)).

Responsibilities of Local Water Management Authority

1. When notified by an SWCD that a landowner is not in compliance with this section, the county or watershed district with jurisdiction must provide the landowner with a list of corrective actions needed to achieve compliance and a practical timeline to meet the requirements in this section.
2. The county or watershed district with jurisdiction must provide a copy of the Corrective Action Notice (CAN) to BWSR ([subd. 7\(a\)](#)).
3. If the landowner does not comply with the list of actions and timeline provided, the county or watershed district may enforce this section under the authority granted in section 103B.101, subdivision 12a, or by rule of the watershed district or ordinance or other official control of the county. ([subd. 7\(c\)](#)).

Statutory References

- Water Resource protection requirements: M.S. [§103F.48, subd. 3](#)
- Local implementation and assistance: M.S. [§103F.48, subd. 6](#)
- Corrective Actions: M.S. [§103F.48, subd. 7](#)
- Withholding funding: M.S. [§103F.48, subd. 8](#)

Procedure 10: Revoking Jurisdiction of County or Watershed District

If a county or WD exercising jurisdiction fails to implement actions consistent with M.S. §103F.48, its enforcement authority, or board adopted procedures, BWSR staff will contact the local government unit in writing to detail its concerns and outline the required corrective actions to take place. This procedure provides a predictable and definable process for potential board action associated with a staff recommendation to revoke the jurisdictional status of a county or WD if the adoption and implementation of rule, ordinance, or official controls are not in compliance with the requirements of this section or board-adopted procedures.

Procedure:

If a county or WD fails to respond or take significant action towards implementation of the Buffer Law with an acceptable plan following communication and dialogue with BWSR staff, BWSR will formally notify the county or WD of its specific findings and that it will commence with proceedings where jurisdiction may be revoked.

1. The notice will request that the county or WD appear at a hearing before the board's Dispute Resolution Committee (DRC)⁷ to discuss this matter. The hearing will be conducted in accordance with BWSR bylaws and as described below.
2. Within 30 days of BWSR's notice of findings that jurisdiction may be revoked, a county or WD must provide a written record of all actions it has taken with respect to the items identified in BWSR's findings as deficient.
3. The process for a hearing before the DRC⁸ regarding Revocation of Jurisdiction is:
 - a. The DRC will establish a schedule for the hearing which may include filing written briefs
 - b. Set a date and time for when the matter will be heard
 - c. The DRC conducts a hearing
 - d. Any DRC recommendation to revoke jurisdiction will go to the BWSR board for final decision

⁷ The DRC is a committee of the full BWSR board created to hear and resolve disputes, appeals, and interventions.

⁸ Board order establishing this process and designates the DRC as the appropriate forum to hear and resolve these matters under the authority provided in Minn. Stat. [§103B.101](#), subds. 4 and 10, and 103F.48, subd. 1(j).

4. A county or WD may re-elect jurisdiction after no less than two years from the date jurisdiction was revoked by the board.
5. If a county or WD re-elects jurisdiction the board may consider past performance during its review to determine if the county or WD can again be with jurisdiction.

Statutory References:

- Definitions: M.S. [§103F.48, subd. 1](#)
- Hearings, Orders, and Rulemaking: M.S. [§103B.101, subd. 7](#)
- Committee for Dispute Resolution: M.S. [§103B.101, subd. 10](#)

Procedure 11: Local Water Resources Riparian Protection ("Other Watercourse")

Soil and water conservation districts (SWCDs) may identify additional watercourses that are not included on the Buffer Protection Map to their local water management authority to be included in riparian buffer protection areas. This procedure is intended to provide assurance that the SWCD summary of other watercourses is developed in a systematic and rational manner, based on watershed data, water quality, and land use information. 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.

Procedure:

Each SWCD should 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 of waters that were not included on the Buffer Protection Map prior to local adoption of the summary of watercourses (or exclusion of some waters).
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.

Statutory References:

- Local Water Resources; Riparian Protection: M.S. [§103F.48, subd. 4](#)
- Local implementation and assistance: M.S. [§103F.48, subd. 6](#)
- Comprehensive Watershed Management Planning Program (One Watershed One Plan): M.S. [§103B.801](#)
- Water plan review and approval elements: Minnesota Laws, Chapters [103B](#), [103D](#).

BOARD ORDER**Soil Health Practices Program: FY 26 Delivery Grants****PURPOSE**

Authorizes staff to develop a Request for Interest (RFI) for the Soil Health Delivery Program and make awards.

FINDINGS OF FACT / RECITALS

1. The Board of Water and Soil Resources (Board) received funding and authorization for soil health grants from the following clean water fund appropriations:
 - A. (Clean Water Fund) Laws of Minnesota 2025, Regular Session, Chapter 40, Article 2, Section 6, paragraph (o): *\$3,560,000 the first year and \$5,926,000 the second year are for financial and technical assistance to enhance adoption of cover crops and other soil health practices to achieve water quality or drinking water benefits. The board may use agreements with local governments, the United States Department of Agriculture, AgCentric at Minnesota State Center for Excellence, and other practitioners and partners to accomplish this work. Up to \$450,000 is for an agreement with the University of Minnesota Office for Soil Health for applied research and education on Minnesota's agroecosystems and soil health management systems. This appropriation may be extended to leverage available federal funds.*
2. "Soil Health" is defined in MN Statute Section 103C.101, Subd. 10a. "Soil Health" means the continued capacity of soil to function as a vital living system that sustains plants, animals, and humans. Indicators of soil health include water infiltration capacity; organic matter content; water holding capacity; biological capacity to break down plant residue and other substances and to maintain soil aggregation; nutrient sequestration and cycling capacity; carbon sequestration; and soil resistance.
3. The Board has authorities under Minnesota Statutes Section 103B.101 to award grants and contracts to accomplish water and related land resources management.
4. The Grants Program and Policy Committee, at their September 25, 2025, meeting, reviewed the proposed FY 26 Soil Health Delivery Grants process and maximum allocations amounts (Table 1) and recommended the board approve this order.

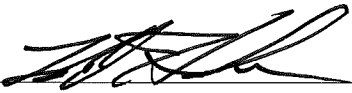
ORDER

The Board hereby:

- A. Authorizes the fiscal year 26 Soil Health Delivery Program and authorizes staff to develop an RFI to support implementation activities consistent with the appropriation language.
- B. Authorizes staff to award Soil Health Delivery Grants based on responses to the RFI up to the amounts listed in the attached table and enter into agreements for program implementation.

- C. Provide supplemental payments consistent with the RFI using remaining available funds from this appropriation.
- D. Directs staff to regularly report to the Board on the status of Soil Health Delivery Grants awarded.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



Todd Holman, Chair
Board of Water and Soil Resources

Date: 10/22/2025

Table 1. Soil Health Delivery Grant Maximum SWCD Allocation Amounts.

Recipient	Amount
Ramsey	Up to \$7,500
Lake	Up to \$7,500
Koochiching	Up to \$7,500
South St. Louis	Up to \$7,500
North St. Louis	Up to \$7,500
Cook	Up to \$7,500
Washington	Up to \$10,000
Lake of the Woods	Up to \$10,000
Itasca	Up to \$10,000
Crow Wing	Up to \$10,000
Carlton	Up to \$10,000
Aitkin	Up to \$10,000
Kanabec	Up to \$10,000
Anoka	Up to \$10,000
Hennepin	Up to \$10,000
Hubbard	Up to \$10,000
Wadena	Up to \$20,000
Chisago	Up to \$20,000
Sherburne	Up to \$20,000
Isanti	Up to \$20,000
Scott	Up to \$20,000
Carver	Up to \$20,000
Benton	Up to \$20,000
Root River	Up to \$20,000
Beltrami	Up to \$20,000
Cass	Up to \$20,000
Mille Lacs	Up to \$20,000
Clearwater	Up to \$20,000
Pine	Up to \$20,000
Mahnomen	Up to \$30,000

Dakota	Up to \$30,000
Winona	Up to \$30,000
Red Lake	Up to \$30,000
Le Sueur	Up to \$30,000
Wabasha	Up to \$30,000
Nicollet	Up to \$30,000
Rice	Up to \$30,000
Waseca	Up to \$30,000
Steele	Up to \$30,000
Big Stone	Up to \$30,000
Watsonwan	Up to \$30,000
Wright	Up to \$30,000
Dodge	Up to \$30,000
Douglas	Up to \$30,000
McLeod	Up to \$40,000
East Polk	Up to \$40,000
Pipestone	Up to \$40,000
Grant	Up to \$40,000
East Otter Tail	Up to \$40,000
Rock	Up to \$40,000
Todd	Up to \$40,000
Pennington	Up to \$40,000
Meeker	Up to \$40,000
Olmsted	Up to \$40,000
Stevens	Up to \$40,000
Lincoln	Up to \$40,000
Morrison	Up to \$40,000
Becker	Up to \$40,000
Chippewa	Up to \$40,000
Pope	Up to \$40,000
Sibley	Up to \$40,000

Brown	Up to \$40,000
Traverse	Up to \$40,000
Goodhue	Up to \$40,000
Cottonwood	Up to \$50,000
Blue Earth	Up to \$50,000
Kandiyohi	Up to \$50,000
Swift	Up to \$50,000
Lac Qui Parle	Up to \$50,000
Freeborn	Up to \$50,000
Jackson	Up to \$50,000
Lyon	Up to \$50,000
West Otter Tail	Up to \$50,000
Roseau	Up to \$50,000
Murray	Up to \$60,000
Martin	Up to \$60,000
Fillmore	Up to \$60,000
Mower	Up to \$60,000
Faribault	Up to \$60,000
Nobles	Up to \$60,000
Yellow Medicine	Up to \$60,000
Wilkin	Up to \$60,000
Kittson	Up to \$60,000
Norman	Up to \$75,000
Redwood	Up to \$75,000
Clay	Up to \$75,000
Renville	Up to \$75,000
Stearns	Up to \$75,000
Marshall	Up to \$75,000
West Polk	Up to \$75,000
Total	\$3,220,000



BOARD ORDER

Fiscal Year 2026 Water Quality and Storage Program – Round 2

PURPOSE

Authorize the FY26 Water Quality and Storage Program – Round 2.

RECITALS /FINDINGS OF FACT

1. Minn. Stat. 103F.05 provides the statutory authority for the Water Quality and Storage Program. The purpose of the Program is to control water volume and rates to protect infrastructure, improve water quality and related public benefits, and to mitigate climate change impacts. Statute establishes that the priority areas for the program are the Minnesota River basin and the lower Mississippi River basin in Minnesota.
2. Laws of Minnesota 2021, 1st Special Session, Chapter 6, Article 1, Sec. 4(l), appropriated \$2 million to a water quality and storage program. Due to returned funds, approximately \$500,000 of this appropriation is remaining.
3. Laws of Minnesota 2023, Regular Session, Chapter 60, Article 1, Sec. 4(p), appropriated \$17 million in Fiscal Years 24-25 to a water quality and storage program. Approximately \$10 million of this appropriation is remaining.
4. The Grants Program and Policy Committee, at their October 13, 2025 meeting, reviewed the proposed Water Quality and Storage Program RFP and associated documents and recommend approval to the board.

ORDER

The Board hereby:

- A. Adopts the scoring and ranking criteria identified in Table 1 and Table 2.
- B. Authorizes staff to develop and issue the FY26 Request for Proposal – Round 2, score and rank the responses, and enter into grant agreements consistent with the RFP criteria in an amount up to \$4.5 Million.
- C. Authorizes staff to complete all pre-agreement processes and enter into agreements for these purposes.
- D. Authorizes staff to redistribute funds that are returned consistent with the provisions of the RFP.
- E. Directs staff to report to the Board on the status of Water Quality and Storage program awards.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES

Todd Holman, Chair
Board of Water and Soil Resources

Date:

10/22/2025

Table 1. Water Quality and Storage Program – Final Design and Construction Grants

Scoring and Ranking Criteria	Maximum Points Possible
<u>Activity Eligibility:</u> The proposed grant-funded activities are eligible under this RFP.	YES
1. <u>Project Description:</u> Applicant has clearly described the area of interest and the flooding concerns, water quality issues, or climate change vulnerabilities at this site. Additional points will be awarded if more than one issue is addressed with this project and if the applicant can describe how the issue has changed over time (i.e. increase in water quality concerns) OR how the issue varies under different flood events (i.e. 10-year vs. 50-year). Include a description of the location of nearest public drainage system.	20
2. <u>Priority Location:</u> Projects located in the priority areas of the Minnesota River Basin and the Lower Mississippi River Basin in Minnesota (as stated in MN Statute 103F.05 Subd. 2 (b)) will be awarded the maximum points in this category. Projects outside of this priority area will receive zero points in this category.	10
3. <u>Prioritization:</u> The project or practice type (i.e. storage) is referenced within a watershed management plan locally adopted and approved by the State (include plan title, section and page number) or is a Tribal Government priority. Applicant describes how a comprehensive approach is being taken to water management and the placement of the practice will support that management. Applicant includes other measures or actions are being taken in the watershed to reduce peak flooding or improve water quality, such as soil health practices or other structural practices and a variety of funding sources is being used to implement these practices. Include any consideration given to how the proposed project may change the timing of peak runoff from the area of interest and if that will positively or negatively impact areas downstream.	20
4. <u>Measurable Outcomes:</u> Applicant provides calculated results for peak flow reduction, water quality improvements, or measurable climate impact improvements and the methodology used for these calculations. Applicant must provide the total storage volume provided by the projects and/or practices. Applicant should consider the following questions when deciding what outcomes to report: What is the reduction in peak flow during different storm events? What is the estimated annual reduction in pollutant(s) being delivered to the water resource(s) of concern by this project? If there have been specific pollutant reduction goals set for the pollutant(s) and resource(s) of concern, please indicate the goals and the process used to set them.	20

5. <u>Project Readiness</u> : List all expected permits that will be required for this project and include where you are in the permitting process. Describe steps and actions that have been taken to ensure that project implementation can begin soon after grant award, such as partner coordination, preliminary identification of potential conservation practice/activity locations, coordination with landowners, archaeological and/or cultural resources review, and/or preliminary discussions with permitting and approval authorities, including the DNR Area Hydrologist and Minnesota Department of Health regarding effects on drinking water. Provide information on if the proposed project is in a Wellhead Protection Area (WHPA), Historical Source Water Assessment Area, or a groundwater or surface water Drinking Water Supply Management Area (DWSMA). If so, describe any potential impacts of the project on ground water aquifers or surface water drinking water resources.	20
6. <u>Cost Effectiveness</u> : The application identifies a cost-effective solution to address the issue at the area of concern. Applicant should consider factors such as, but not limited to, BMP effectiveness, timing, site feasibility, practicality, property owner willingness, and public acceptance. The cost per acre-foot of storage is reasonable and the cost for the resulting flow reduction is reasonable.	10
7. List all easements that will be obtained or modified as part of this project. Include if the easement has already been acquired.	0
8. A portion of the available funds for this RFP must be spent by December 31, 2027. Please indicate if you can guarantee your project could be completed within that timeframe.	0
Total Points Available	100

Table 2. Water Quality and Storage Program – Modeling and Conceptual Design Grants

Scoring and Ranking Criteria	Maximum Points Possible
<u>Activity Eligibility</u> : The proposed grant-funded activities are eligible under this RFP.	YES
1. <u>Project Description</u>: Applicant has clearly described the area of interest and the flooding concerns, water quality issues, or climate change vulnerabilities at this site. Applicant has provided a watershed extent that will be modeled and the modeling software and methodology that will be used for this effort. Additional points will be awarded if more than one issue will be considered with the modeling effort and how the issue(s) change during different flood events (i.e. 10-year vs. 50-year).	20

2. <u>Priority Location:</u> Projects located in the priority areas of the Minnesota River Basin and the Lower Mississippi River Basin in Minnesota (as stated in MN Statute 103F.05 Subd. 2 (b)) will be awarded the maximum points in this category. Projects outside of this priority area will receive zero points in this category.	10
3. <u>Prioritization:</u> The area to be modeled is referenced within a watershed management plan locally adopted and approved by the state (include plan title, section and page number) or is a Tribal Government Priority. Applicant describes how a comprehensive approach is being taken by the LGUs and other practices that are being installed to support the plan's efforts.	5
4. <u>Measurable Outcomes:</u> Applicant has explained the intended deliverables of this project. Examples of this include: which storm events will be modeled, how results will be quantified upon completion of the modeling, and/or how sites will be selected for conceptual and final design. Applicant has shown that this project will result in a feasibility study that can be used for a final design and construction application.	25
5. <u>Project Readiness:</u> Applicant has described steps and actions taken to ensure that this effort will move into a final design and construction phase, such as partner coordination, coordination with landowners, and preliminary discussions with permitting authorities, including the DNR Area Hydrologist and the Minnesota Department of Health if drinking water or groundwater is a concern in the area of the proposed work. Discuss if an alternative path(s) forward will be pursued for this area if this grant is not received. List expected permits that may be required during implementation.	30
6. <u>Cost Effectiveness:</u> The application identifies a cost-effective solution to evaluate the issue at the area of concern. Include a consideration of other modeling efforts of this system and why this additional effort is needed.	10
7. List all easements that will be obtained or modified as part of this project. Include if the easement has already been acquired. If this is unknown at the time of modeling, you can enter unknown at this time.	0
8. A portion of the available funds for this RFP must be spent by December 31, 2027. Please indicate if you can guarantee your project could be completed within that timeframe.	0
Total Points Available	100

BOARD ORDER**Conservation Easement Alteration Policy Revision****PURPOSE**

Board approval of revised Conservation Easement Alteration Policy and rescinding the Easement Alteration Policy adopted by Board Resolution #17-105.

RECITALS /FINDINGS OF FACT

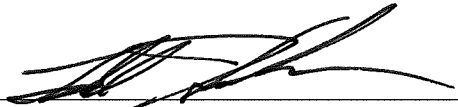
- A. The Minnesota Board of Water and Soil Resources (BWSR) is authorized to acquire Conservation Easements on eligible lands according to Minn. Stat. §§103F.515, 84C.02, 103B.101, and other applicable law;
- B. Minnesota Statutes, section 84C.02 also states that a conservation easement can be released, modified or otherwise altered, in the same manner as other easements;
- C. In 1990, Minn. R. 8400.3610 was established and became the rule governing requests to modify or alter Reinvest in Minnesota (RIM) conservation easements;
- D. In 2006, the board adopted a policy for easement alteration requests, expanding on the Rule language, to clarify requirements and operational procedures for submittal and Board consideration of such requests;
- E. The Easement Alteration Policy was last revised in 2017 to expand on requirements and revise procedures for submittal;
- F. In 2024, Minn. R. 8400.3610 was repealed, thereby making the language and basis of the easement alteration policy outdated and obsolete;
- G. In addition to the outdated rule language, Easement staff identified a number of policy updates necessary to clarify the criteria for easement alteration request consideration; increase the administrative fees to reflect the current cost of processing an alteration request and associated easement amendment; reduce compensation required for certain public infrastructure projects; and better align with easement program goals;
- H. Further, the revised policy will allow common requests for public roads, infrastructure and utilities to be approved, conditioned or denied by the BWSR Executive Director, and be appealed to the RIM Reserve Committee and BWSR Board;
- I. This Order has been developed in consideration of, and is consistent with, Board Decision #24-59, Delegating Certain Authorities to the Executive Director;
- J. BWSR staff will develop specific instructions for submitting an easement alteration request and procedural elements relating to submittal will no longer be contained within the policy;
- K. The board voted at their September 22, 2025 meeting to send the draft policy back to the RIM Reserve Committee for further discussion related to the application of the policy to public infrastructure projects;
- L. The RIM Reserve committee met and is recommending approval of the attached policy.

ORDER

The Board hereby:

1. Adopts the revised Conservation Easement Alteration Policy to be effective January 1, 2026;
2. Rescinds Easement Alteration Policy adopted on December 20, 2017 by Board Resolution #17-105;
3. Delegates Authority to the Executive Director for the approval, conditioning or denial of easement alteration requests submitted under Section D of the policy for public Infrastructure, utilities, and other public needs, which could be appealed to the Board.

MINNESOTA BOARD OF WATER AND SOIL RESOURCES



Todd Holman, Chair
Board of Water and Soil Resources

Date: 10/22/2025

Conservation Easement Alteration Policy

Version: 4.0
Effective Date: January 1, 2026
Approval: Board Order 25-55

A. Policy Statement

The Minnesota Board of Water and Soil Resources (BWSR) occasionally receives requests to alter or modify an existing conservation easement when a proposed activity will impact the easement area or would not be consistent with easement terms and conditions. The easement alteration policy was created to establish the requirements and conditions necessary for BWSR to consider a request to alter an existing conservation easement.

The Board will only consider a proposed alteration to a conservation easement when the outcome will fulfill a public need, improve public health or safety, result in additional natural resource protection or further enhance the original purpose of the easement, and when easement impacts cannot be reasonably avoided.

B. Policy Purpose

The purpose of this policy is to provide direction, clarity and consistency to BWSR staff, Soil and Water Conservation District (SWCD) staff, and entities wishing to request an easement alteration, by outlining the circumstances under which an easement alteration request will be considered by the board, and to ensure that public and natural resource benefits are not lost or diminished if an easement is altered. The policy also outlines the compensation, either monetary or through land exchange, and administrative fees due to the board by the proposing entity when an easement alteration is requested or approved.

C. Applicability

This policy applies to requests to alter existing State Reinvest In Minnesota (RIM), Permanent Wetland Preserve (PWP), Conservation Reserve Enhancement Program (CREP) and Army Compatible Use Buffer (ACUB) easements and future similar BWSR Conservation Easement acquisitions. This policy does not apply to Wetland Bank easements.

An easement alteration request must be approved by the board before any proposed activity occurs within an existing easement boundary that would result in long-term impacts, such that the land would no longer meet easement terms and conditions or be able to be maintained according to the BWSR-approved conservation plan. **Easement alteration requests should only be made if there is no reasonable alternative location for the proposed activity, and in such cases, impacts to the easement should be minimized to the extent possible.**

Certain activities or modifications to land within the easement may be compatible with the terms and conditions of the easement and may not require an easement alteration if the impacts are temporary and the easement area can be restored and maintained according to the BWSR-approved conservation plan after the temporary disturbance. Certain easement land use changes may be allowed through an amendment to the easement's conservation plan.

This policy is not intended to resolve new or existing violations on conservation easements. A request to alter an easement must be approved **before** any activity occurs on the land that would otherwise be a violation of the conservation easement. Landowners or entities who violate a conservation easement may be liable for treble damages or other monetary penalties under MN Statute 103F.515 Subd. 9.

This policy does not apply to easement boundary corrections that are authorized, without compensation, by MN Statute 103.515 Subd. 8.

D. Public Infrastructure, Utilities, and other Public Needs Requests

This section of the policy applies to partial releases proposed for public infrastructure, utilities, and projects that fulfill a public need, have a demonstrated health or safety benefit, and there is no reasonable alternative than to impact the conservation easement. Examples include public road safety improvements, municipal water and sanitation projects, energy facilities or transmission lines, and other projects that fulfill a compelling need to the general public and the State of Minnesota. The entity responsible for the project should submit the easement alteration request.

Public infrastructure, utilities, and other public needs alteration requests will be reviewed and authorized, conditioned or denied by the BWSR Executive Director. If the alteration request is denied

or conditioned, the alteration request may be appealed to the RIM Reserve Committee for a subsequent recommendation to the BWSR board for approval or denial.

Easement alteration requests for public infrastructure, utilities, and other public needs projects to alter a conservation easement are subject to the following conditions for BWSR consideration:

- 1) A non-refundable \$1,000 administrative fee is required at the time a request is submitted. The fee shall be paid by the entity proposing the easement alteration.
- 2) The entity must describe alternatives considered and why there is no reasonable alternative that would avoid impacting the conservation easement.
- 3) When there is no reasonable alternative, entities should minimize proposed impacts to the conservation easement to the extent feasible and practical.
- 4) Compensation due to the state for damages and loss of benefits to the conservation easement, upon BWSR approval of a request, will be as follows:
 - A. For alterations proposed by government entities, for public infrastructure wholly owned, operated and maintained by the government entity, compensation to the board will be:
 - Payment at (1x) the current RIM payment rate for any easement acres released, and
 - Reimbursement of any state funds previously disbursed to establish conservation practices on the land being released.
 - B. For other non-governmental infrastructure, utilities, and public needs alteration requests, compensation to the Board will be:
 - Payment at twice (2x) the current RIM payment rate for easement acres released, and
 - Reimbursement of any state funds previously disbursed to establish conservation practices on the land being released.
 - C. For alterations proposed to install public wells and associated access roads on wellhead/drinking water protection easements:
 - Reimbursement of the per-acre easement payment at the time of easement acquisition, for acres released, and
 - Reimbursement of any state funds previously disbursed to establish conservation practices on the land being released.
- 5) If the proposing entity does not hold a fee title or easement interest in the property at the time of the request, the entity must have written permission from the landowner to request the alteration.
- 6) For utility projects regulated by the MN Public Utilities Commission (PUC), the Certificate of Need and PUC Route Permit must be submitted with the easement alteration request.
- 7) An easement's funding source or partnering agency may have additional requirements for easement alteration and **prior approval from other agencies/councils may be necessary** before BWSR can alter the easement, depending on the easement type.

E. Other Easement Alteration Requests

This section applies to requests to alter a conservation easement that are not included in Section D for public infrastructure, utilities, and other public needs. Approval or denial of these alteration requests is at the discretion of the Board after a recommendation by the RIM Reserve Committee.

Other Easement Alteration Requests must meet the following conditions for BWSR consideration:

- 1) A non-refundable \$1,000 administrative fee is required at the time a request is submitted.
- 2) Landowners must explain why there is no reasonable alternative location for the proposed activity that would avoid impacts to the conservation easement.
- 3) When there is no reasonable alternative, impacts to the conservation easement must be minimized to the extent feasible and practical.
- 4) Landowners (or their designee) may be required to attend the RIM Reserve Committee and/or BWSR Board meeting to address questions related to an easement alteration request. Failure to attend the meeting(s) may be grounds for denial of the easement alteration request.
- 5) The resource protection or habitat benefits for which the easement was originally acquired will be increased or enhanced by the proposed alteration.
- 6) The alteration will not result in restored wetland acres being drained or filled.
- 7) Compensation to the Board shall be replacement land at a minimum of a 2:1 ratio for any easement acres released. Acres released from the easement must be replaced by additional land, as follows:
 - To release acres enrolled at a cropland rate and replace with cropland: A minimum of 2:1 replacement. (Cropland proposed as replacement acres must meet RIM crop history requirements, being cropped at least 2 of last 5 years).
 - To release acres enrolled at the cropland rate and replace with non-cropland: A minimum of 4:1 replacement.
 - To release acres enrolled at a non-cropland rate and replace with cropland: a minimum of 1:1 replacement
 - To release acres enrolled at the non-cropland rate and replace with non-cropland: a minimum of 2:1 replacement

Replacement acres must be adjacent to or as near as possible to the existing easement and be owned in whole by the same landowner(s) of the existing easement lands.

- 8) The ratios above may be modified upon recommendation by the RIM Reserve Committee when the conservation benefits of the replacement acres significantly outweigh those of the land proposed for release. Alternatively, the Board may request additional replacement acres to compensate for natural resource values lost when proposing to release higher value easement acres.

- 9) **Landowners will be subject to an additional \$2,000 administrative fee, after Board approval,** to cover SWCD and BWSR staff time to coordinate title review and draft easement amendment documents. Amendment drafting will not begin until the fee is paid.
- 10) Landowners will be required to pay necessary title insurance and recording fees, and all costs associated with providing clear title on replacement lands. The replacement lands must not subject to any prior liens or encumbrances that are determined to be objectionable by the attorney general. If the landowner cannot provide title that is free of objectionable encumbrances, the alteration and amendment cannot occur until title issues are resolved.
- 11) Landowners will be required to cover the cost of establishment of conservation practices on replacement acres according to an amended, BWSR-approved conservation plan.
- 12) Landowners will be required to sign an amended conservation easement including the replacement lands that will be subject to all easement terms and conditions.
- 13) **An easement's funding source or partner agency may have additional requirements for easement alterations and prior approval from other agencies/councils may be necessary before BWSR can alter the easement.**

History

Version	Description	Date
1.0	Policy for Requests to Modify Easements adopted by Board	4/26/1989
2.0	Conservation Easement Alteration Requests and Board Policy developed by Easement Alteration Subcommittee and adopted by BWSR	5/24/2006
3.0	Conservation Easement Alteration Requests and Board Policy update adopted by board resolution 17-105	12/20/2017
4.0	Conservation Easement Alteration Policy adopted by board resolution 25-XX	09/24/2025

Contact

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Board of Water and Soil Resources

Proposed 2026 meeting dates.

January 28

February – no meeting

March 25

April 22

May 27

June 24

July – no meeting

August 26-27 (Wed-Thurs) – Tour and meeting

September 23

October 28

November – no meeting

December 17 (third Thursday)



Todd Homan, Chair
Board of Water and Soil Resources

Date: 10/22/2025