

## 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 authority<sup>1</sup>.

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.

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<sup>1</sup> 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 authority<sup>2</sup>.

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.

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<sup>2</sup> 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) authority<sup>3</sup> 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)

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<sup>3</sup> 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 authority<sup>4</sup> 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.

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<sup>4</sup> 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.<sup>5</sup>

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](#)

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<sup>5</sup> 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 compliance<sup>6</sup>.

**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.

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<sup>6</sup> 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)<sup>7</sup> 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 DRC<sup>8</sup> 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

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

<sup>8</sup> 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](#).