



Implementing Minnesota's Buffer Law

Summer 2016

In June of 2015, Governor Dayton signed into law a new buffer initiative aimed at enhancing protection of Minnesota's waters. The law was further clarified in 2016, and policies are currently being developed by the Board of Water and Soil Resources (BWSR) to implement the law.

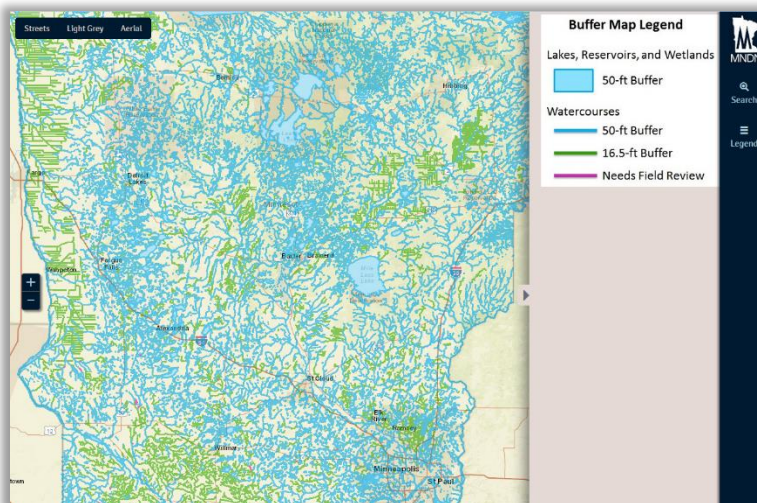
What is a buffer?

A buffer, also known as a riparian filter strip, is vegetated land adjacent to a stream, river, lake or wetland. Buffers help filter out phosphorus, nitrogen, and sediment, and are an important conservation practice for helping keep water clean.

Where are buffers required?

Under the law, buffer widths will be:

- An average of 50 feet, minimum of 30 feet, on public waters, as determined by the Department of Natural Resources (DNR)
- A minimum of 16.5 feet on public drainage systems, as determined by the local Drainage Authority (usually the County or Watershed District)
- Soil and Water Conservation Districts (SWCDs) will identify other watercourses for inclusion in the county or watershed district water plan, who will then determine appropriate water quality actions for those watercourses.
- Alternative Water Quality Practices which provide a comparable water quality benefit are allowed on **Agricultural lands**.



The DNR recently released its statewide buffer map, which allows landowners to determine whether they are impacted by the Buffer Law. The DNR Buffer Protection Map can be found here:

<http://dnr.state.mn.us/buffers/index.html>

How will the program work?

BWSR is working to get program details developed. Landowners may install buffers on their own at any time before the implementation deadlines. SWCDs will provide technical assistance and answer questions about financial assistance options. Landowners also have the option of working with their SWCD to determine if other alternative practices aimed at protecting water quality can be used.

Is there financial assistance available?

Yes. The 2015 Buffer Law relies on long-standing federal, state, and local programs to provide financial and technical support to landowners to implement buffers or alternative water quality practices. Landowners may use federal Farm Bill resources, such as the Conservation Reserve Program (CRP), Continuous CRP, and the Environmental Quality Incentives Program to get buffers installed. State resources include programs such as the Reinvest in Minnesota (RIM) easement program, Conservation Cost-Share, and the Minnesota Agricultural Water Quality Certification Program (AWQCP). The BWSR Board recently approved a policy that all farms who are certified under the AWQCP are deemed compliant with the buffer law requirements.



A grass buffer strip in Redwood County.



A buffer in Olmsted County.

What's the timeline?

The new law specifies:

- November 1, 2017: Buffers in place on all public waters
- November 1, 2018: Buffers in place on all public drainage systems

Who is responsible for enforcement?

Counties and Watershed Districts have the option to choose whether to be the enforcement agency for the Buffer Law. If they elect not to do so, BWSR is responsible.

Where do I go for more information?

Contact your local SWCD for more information about buffers and local requirements. For more information on the new buffer law, please visit: www.bwsr.state.mn.us/buffers/. The DNR map and more information about their process can be found at <http://dnr.state.mn.us/buffers/index.html>.



Policy 3: MS4 Exemption

Buffer Law Implementation

August 25, 2016

Policy

It is the policy of the Board of Water and Soil Resources that:

1. NPDES/SDS Program municipal separate storm sewer system (MS4) permittees are not required to take any action regarding this exemption.
2. Actions that meet the “water resources riparian protection” provision of M.S. 103F.48, Subd. 5 (4) include, separately or in combination:
 - a. Perennially rooted vegetation as prescribed in M.S. 103F.48, Subd. 3(a), or
 - b. Alternative riparian water quality practices as prescribed in M.S. 103F.48, Subd. 3(b), or
 - c. Projects with comparable water quality protection provided by MS4 managed or sponsored infrastructure.
3. NPDES/SDS Program municipal separate storm sewer system (MS4) permittees that choose to take action to support this exemption must:
 - a) have implemented a MS4 permittee sponsored project(s) which provides water quality protection comparable to a buffer for the parcel seeking the exemption; and
 - b) provide evidence of (a) to the landowner and the respective SWCD.

Background

This policy provides direction to cities, townships, watershed districts, soil and water conservation districts (SWCD), counties and landowners regarding the implementation of Minnesota Statutes 103F.48, subdivision 5(4). This provision provides an exemption to landowners from the requirements of the Buffer Law if the following conditions are met:

- (1) The land is subject to a NPDES/SDS Program municipal separate storm sewer system (MS4) permit;
and
- (2) Water resources riparian protection is provided; and
- (3) The site is not inconsistent with the requirements of the state shoreland rules.

A MS4 permit does not have water resources riparian protection as a required component of the permit and the MS4 permit does not provide water resources riparian protection for areas outside the infrastructure subject to and managed by the MS4 permittee. Therefore, a MS4 permittee is not expected to provide water quality protection comparable to the buffer protection as part of the permit.

The Minnesota Pollution Control Agency (MPCA) oversees the NPDES/SDS Programs and can provide information on entities regulated under this program including specific requirements for each permit.

Policy Need:

- 1) Landowners need 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.
- 2) The MS4 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.
- 3) 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.

Statutory Basis.

- Section 103F.48 Subd. 5(4)(i). Exemptions
- Section 103F.48 Subd. 7. Corrective Actions
- Section 103B.101 Subd. 12(a). Administrative Penalty Orders
- Section 103F.48 Subd. 9. Appeals and Validations of Penalty Orders