

## **Frequently Asked Questions regarding Minnesota's Buffer Law in Otter Tail County**

### **What you need to know about the MN Buffer Law.**

The questions and answers below are specifically addressed to landowners in Otter Tail County from the East & West Otter Tail Soil and Water Conservation Districts (SWCD). If you own land in another county you are encouraged to contact your local SWCD office for assistance.

#### **How do I know if my land needs a buffer?**

In Otter Tail County, all landowners who may potentially be out of compliance on public waters would have received 2 notices from Otter Tail County. Landowners on public/county ditches would have received 1 notice. These letters included factsheets, maps, and a response postcard to assist with tracking compliance. To view the map of required waterbodies you can visit the MN DNR buffer map at <http://www.dnr.state.mn.us/buffers/index.html>

#### **What is required?**

MN Statute 103F.48 states that a continuous buffer of perennially rooted vegetation must be established and maintained at an average width of 50 feet with no less than 30 feet minimum on all public waters. In addition a 16.5 foot buffer must be established and maintained on all public/county ditches. All required widths are in linear feet.

#### **When do I need to have my buffer established and what constitutes established?**

Public waters are required to have a buffer in place by November 1, 2017. Public/county ditches are required to have a buffer in place by November 1, 2018.

Established means planted to a perennial vegetation. However, a landowner working through the SWCD and a specific conservation program will be considered established if that program requires specific seeding establishment periods.

#### **What is considered a public water?**

Public waters are all lakes, wetlands and watercourses that meet the criteria set forth in Minnesota Statutes 103G.005, subd. 15 and are designated on public waters inventory maps. Public waters were designated in the 1980s through a legal process that included a DNR inventory and a county-led public review and appeal process.

#### **Who is responsible for establishing the required buffer?**

The landowner is required to establish and maintain the required buffer.

#### **Where does the buffer measurement start?**

The width of a buffer on public waters must be measured from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level. The width of the buffer on public drainage systems must be measured from the top of the constructed channel consistent in section 103E.021 subdivision 1.

#### **What are my options for establishing the required buffer?**

Landowners have several options when it comes to establishing the required buffer.

1. Landowners can enroll in programs such as the Conservation Reserve Program (CRP), State Cost Share Program and other Federal, State and Local programs.
2. Landowners can establish the required buffer on their own with no financial assistance.
3. Landowners can install/utilize alternative practices.

**Am I required to plant a specific vegetation cover type?**

No, the law states that the buffer must be established and maintained to a perennially rooted vegetation. Buffers can be planted to alfalfa, cool season grasses, pasture mixes, clovers, native grasses and wildflowers, and trees and shrubs. The above mentioned cover types are examples and are not the only options.

**If I plant alfalfa, am I allowed to reestablish my alfalfa stand in the future through the use of temporary disturbance?**

Yes, if you plan to reestablish your alfalfa field through the use of temporary disturbance you are encouraged to notify the soil and water conservation district of your intentions and a conservation plan will be developed.

**Can I hay or graze the buffer?**

Yes, the law does not restrict the use of haying and grazing on the buffer. However if the buffer is enrolled in the CRP or other conservation program, haying and grazing may be prohibited.

**Are there programs available to assist with the establishment of the buffer?**

Yes, landowners are encouraged to contact their local SWCD to discuss programs available to assist with establishment. Programs include CRP, CREP, EQIP, CSP, and State Cost Share.

**If I utilize alternative practices, do I no longer need a buffer?**

The use of alternative practices will most likely not eliminate the need for a buffer. However, utilizing alternative practices may potentially reduce the width of the required buffer.

**What is required for alternative practices?**

Each bank/normal water level within a parcel must achieve water quality benefits via:

- A. Evaluated by the SWCD
- B. Documentation of the assessment method used
- C. A map or diagram of the practices
- D. Documentation that the water quality protection is comparable to a buffer.

Alternative practices must also meet the following:

1. Treat all water running off of a parcel into the protected waterbody
2. Demonstrate treatment or protections from erosion and runoff pollution, including suspended solids, sediment and sediment associated constituents greater to or equal that of a buffer
3. Consider the stability of soils, shores, and banks

**Is there a recommended alternative practice?**

Alternative practices will have to be evaluated on a parcel by parcel basis by the SWCD. Landowners interested in alternative practices should consider the Minnesota Agriculture Water Quality Certification Program (MAWQCP). For more information on alternative practices please contact your local SWCD.

### **What is the MAWQCP?**

The Minnesota Agricultural Water Quality Certification Program (MAWQCP) is a voluntary opportunity for farmers and agricultural landowners to take the lead in implementing conservation practices that protect our water. Those who implement and maintain approved farm management practices will be certified and in turn obtain regulatory certainty for a period of ten years.

Through this program, certified producers receive:

- Regulatory certainty: certified producers are deemed to be in compliance with any new water quality rules or laws during the period of certification
- Recognition (optional)
- Priority for technical assistance: producers seeking certification can obtain specially designated technical and financial assistance to implement practices that promote water quality

### **What is the penalty if I do not establish the required buffer?**

Policy currently provides 3 options for the enforcing agency to consider.

1. Adoption of 103F.48 into the county shoreland ordinance and enforcement action consistent with current shoreland ordinance. Currently a violation in Otter Tail County would be considered a misdemeanor.

2. Adoption of an administrative penalty order consistent with that of the State of Minnesota which is currently in draft form but states:

The penalty for a landowner that has not previously been the recipient of an administrative penalty order will be assessed on the following schedule:

- (a) \$100 per parcel per month for six (6) months (180 days) following the correction period; and
- (b) \$500 per parcel per month for after six (6) months (181 days) following the correction period.

3. A combination of the 1 and 2 can also be adopted by the enforcing agency.

### **Where do I go for assistance with establishing my buffer?**

Landowners in Otter Tail County are encouraged to contact the following SWCD offices:

West Otter Tail SWCD  
506 Western Ave N  
Fergus Falls, MN 56537  
218-739-4694 ext. 4

East Otter Tail SWCD  
801 Jenny Ave SW  
Perham, MN 56573  
218-346-4260 ext. 3

### **What services are provided by the East and West SWCDs?**

The SWCDs are willing to provide the following services to landowners in Otter Tail County at no charge:

- In-field services including site visits, field verification, and boundary staking, if requested
- Assisting with enrolling in conservation programs to assist with establishment
- Assisting with developing and approving alternative practices

For more details on services please contact your local SWCD.