



# Procedure 1: Compliance Determinations (Parcel and Bank Approach)

Buffer Law Implementation

June 28, 2017

This document was adopted by the Board of Water and Soil Resources (BWSR) pursuant to Minn. Stat. §103F.48, to describe how compliance with the requirements of this section should be determined. It is a guide; not a rule. It is not a statement of general applicability and future effect. It is not designed to amend statute. Statutes are subject to change and if the language of this procedure differs from statute, the statute controls. In addition, users of the document are encouraged to obtain legal advice of an attorney regarding their specific application of Minn. Stat. §103F.48 and their own legal authorities.

## Procedure

Soil and water conservation districts (SWCD) will perform compliance reviews with the following considerations:

1. An overall status of “Compliant” or “Not Compliant” will be determined and tracked on a 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 to determine if a compliant buffer or alternative practice(s) has been installed.

## Background

The Buffer Law establishes buffer widths or required alternative water quality practices based on the classification of the waters identified on the Buffer Protection Maps.

It is the landowner’s responsibility to establish and maintain a buffer or alternative practice.

### Program Need:

- 1) Landowners subject to monitoring or corrective actions need to know at what scale those determinations will occur.
- 2) It provides a consistent framework for the scale at which the Counties, SWCDs and Watershed Districts and BWSR will determine buffer compliance.
- 3) It provides a consistent legal basis for the SWCD to issue a validation of compliance if requested by a landowner.

## Statutory Basis

- Minn. Stat. §103F.48 subd. 3(a). Water Resource protection requirements
- Minn. Stat. §103F.48, subd. 6. Local implementation and assistance
- Minn. Stat. §103F.48 subd. 7. Corrective Actions
- Minn. Stat. §103F.48 subd. 8. Funding subject to withholding
- Minn. Stat. §103B.101 subd. 12(a). Administrative Penalty Orders
- Laws of Minnesota 2017, 1<sup>st</sup> Special Session, Chapter 93, Article 2, Section 146. Initial Implementation Waiver