



Put a Buffer on it

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Buffer Law
Minn. Stat. § 103F.48

- * January 2015 announcement**
- * Passed 2015**
- * Amended 2016**
- * Amended 2017**

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Purposes

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

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What, Where?

*** Perennial vegetation**

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*** Public Waters → 50/30 feet**

*** Public Ditches → 16.5 feet**

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*** The map – DNR**

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When?

- * Public Waters → Nov. 1, 2017**
- * Public Ditches → Nov. 1, 2018**

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Exceptions

Property:

- * Enrolled in Conservation Reserve Program
- * Recreational Areas
- * Structures
- * Subject to NPDES permit
that provides water resources riparian protection
- * Temporarily non-vegetated
- * Water-inundation cropping systems

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**Alternatives,
Waiver**

**Alternative Riparian Water Quality
Practices – *land in cultivation only***

* Natural Resource Conservation Service or
BWSR

AND

* providing water quality protection
comparable to buffer.

Waivers

* Public Waters – filed by Nov. 1, 2017

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Enforcement

Enforcement Authority

* Process to “affirm” authority by:

* County

* Watershed district

If neither: BWSR

* Need ordinance – but some don’t have ... yet?

* SWCDs → hornswaggled.

* list of corrective actions needed to come into compliance and a practical timeline.

* \$500 penalty ... forgivable.

* Removal, degradation – separate violation.

* Certification – option to request validation of compliance from SWCD

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Help (\$)

Via SWCD, programs:

- * Conservation Reserve Program (CRP)**
- * Continuous Conservation Reserve Program (CCRP)**
- * Conservation Stewardship Program (CSP)**
- * Environmental Quality Incentive Program (EQIP)**
- * Reinvest in Minnesota (RIM)**

**Drainage authority purchase of
buffer strip – in advance or retroactively**

**Federal and state constitutions –
just compensation for taking of land**

Buffer law does not work a taking

- * Not a physical taking under *Loretto*
- * Not a complete deprivation of economic use under *Lucas*
- * *Penn Central* test –
 - the economic impact of the regulation
 - interference with reasonable investment-backed expectations
 - the character of the government action

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**Buffer = (Talk of)
Takings**



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