

# Handbook to help keep watersheds under WRAPS

Guide gives producers tools to weigh in on clean water process

By Doug Monson



There are 81 major watersheds in Minnesota, and each is required to have a Watershed Restoration and Protection Strategy, which lasts for 10 years.

## Checkoff Feature



No matter the state, clean water and water quality are often at the forefront of political and social issues. Due to the federal Clean Water Act, all states must adopt water quality standards to protect lakes, streams, rivers and wetlands from pollution.

In Minnesota, where there are 81 major watersheds, the process is often daunting. To better manage all of those watersheds, the state has adopted Watershed Restoration and Protection Strategies (WRAPS) for all of its 81 major watersheds with the goal of water quality standards that meet total maximum daily loads of pollutants in Minnesota waters.

“The way they are set up is called a 10-year watershed cycle,” says Houston Engineering Inc. Scientist Drew Kessler. “Each watershed should go through the process every 10 years. We are nearing a cycle of finishing all the watersheds.”

Kessler, along with HEI, have been developing a handbook to help guide farmers and landowners through the TMDL/WRAPS process. The handbook helps producers by



equipping them with a better understanding of the process so agriculture is represented when shaping a WRAPS or TMDL study.

Kessler says the timing of the book, which was funded by the Minnesota Soybean Research & Promotion Council and the soybean checkoff, works well as the first watershed cycle will come to an end soon and a new cycle will begin. He says farmer participation is critical to a meaningful TMDL/WRAPS process.

“This handbook is important because we kind of level the process in terms of who is reading it and their knowledge of the process,” he says.

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# Plenty to learn for landowners about Minnesota’s buffer law

Established buffers will be required in 2017 and 2018, depending on type of waterway

Minnesota’s Riparian Protection and Water Quality Practices law, the so-called buffer law, was enacted in June 2015. Affecting an estimated 110,000 acres of land, much of it farmland, the law represents one of the most sweeping environmental regulations directly affecting Minnesota’s farmers.

The law requires that landowners maintain buffers around certain waterways in the state. The buffers must consist of perennial vegetation that protects the water from runoff, stabilizes soils, shores and banks, and protects riparian corridors. Around “public waters,” landowners must maintain buffers with a 50-foot average width. Around public drainage systems, landowners must maintain buffers with a 16.5-foot minimum width. Buffers, or a permitted alternative, must be es-



tablished by November 1, 2017 around public waters and by November 1, 2018 around public drainage systems.

Although some exceptions allow for recreational areas and allow for the temporary elimination of buffers for drainage tile work and reseeding, the exceptions are of relatively limited benefit for farmers. Ultimately, landowners are responsible for establishing and maintaining buffers around covered waters and are subject to monetary penalties for failing to comply. While certain government programs may provide financial assistance for landowners, the law does not provide for compensation or other reimbursement for tillable land taken out of production.

Landowners may be able to challenge the law in court on the basis that the buffer requirement amounts to a “tak-

ing” under the state and federal constitutions; if the law does constitute a taking, the government would be obligated to pay owners “just compensation” for the land affected. A court deciding such a lawsuit would look at several factors to determine whether a taking had occurred including the economic impact of the law on the landowner, how the law impacts a landowner’s expectations, and whether the regulation is generally applicable or only affects a few landowners. Until a landowner challenges it in court, however, the constitutional consequences and fallout of the buffer law remain to be seen.

Jeff Braegelmann is a partner with Gislason & Hunter and has extensive knowledge of public drainage law and water disputes. Join Jeff at 10:30 a.m. Jan. 27 at MN Ag Expo in Mankato to learn about the Minnesota buffer law.

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