

**Drainage Work Group
Recommended Revisions
3-11-16**

**Section 103F.48 RIPARIAN PROTECTION AND WATER QUALITY PRACTICES.
Subd. 10. Landowner financial assistance and public drainage system procedure.**

Recommended Revisions	Explanation
<p>(b) The provisions of sections 103E.011, subdivision 5; 103E.021, subdivision 6; and 103E.715 may be used in advance or retroactively to acquire or provide compensation for all or part of the buffer strip establishment or alternative riparian water quality practices as required under subdivision 3, paragraph (a) or (b), within the benefited area of a public drainage system. Implementation of this subdivision is not subject to limitation of project costs to the current benefits adopted for the drainage system.</p>	<p>Remove “subdivision 6” here to clarify that use of Section 103E.021 for Chapter 103E ditch buffer strips is not limited to Subd. 6.</p> <p>Clarify reference to alternative practices in Section 103F.48, Subd. 3, paragraph (b) and remove a provision that is more limiting than provisions in Sec. 103E.011, Subd. 5, which includes authority to use funds within the “watershed” of the drainage system for specified purposes, including water quality practices.</p> <p>This last provision is not necessary. Application of 103E.021, Subd. 1 to acquire/establish buffer strips is triggered by appointment of viewers and re/determination of benefits and damages, which defines current benefits. Section 103E.021, Subd. 6 refers to Section 103E.705 Repair procedures, which does not limit the total cost of a repair to the current adopted benefits (only limits annual assessments). Use of Section 103E.715 for a petition by an eligible individual or less than 26% of the benefited landowners does not have a limit on repair costs compared to adopted benefits.</p>

Section 103E.315 ASSESSMENT OF DRAINAGE BENEFITS AND DAMAGES.

Recommended Revisions	Explanation
<p>Subd. 8. Extent of damages. <u>(a)</u> Damages to be paid may include: (1) the fair market value of the property required for the channel of an open ditch and the permanent strip of perennial vegetation under section 103E.021; (2) the diminished value of a farm due to severing a field by an open ditch; (3) loss of crop production during drainage project construction; (4) the diminished productivity or land value from increased overflow; and</p>	<p>Create a paragraph (a) here to enable addition of paragraph (b) below.</p>

<p>(5) costs to restore a perennial vegetative cover or structural practice existing under a federal or state conservation program adjacent to the permanent drainage system right-of-way and damaged by the drainage project.</p> <p><u>(b) When damages are determined to acquire or otherwise provide compensation for buffer strips or alternative riparian water quality practices previously installed as required by section 103F.48, subdivision 3, the viewers and drainage authority shall consider the land use prior to buffer strip or alternative practice installation in determining the fair market value of the property under paragraph (a), clause (1).</u></p>	<p>Due to viewer workload and viewing process timelines, redetermination of benefits and damages cannot be completed for all Chapter 103E drainage systems prior to Nov. 1, 2018 and Section 103F.48 buffer strips or alternative practices must be installed before the requirement dates. This addition would enable compensation equity under Chapter 103E going forward compared to before the Section 103F.48 requirements, and assessment of the cost of these water quality buffer strips or alternative practices to all current benefited landowners in the public drainage system. The phrase “shall consider” allows for consideration of different land use situations and is compatible with the permissive authority in Section 103F.48, Subd. 10, paragraph (b). Other provisions in Chapter 103E require drainage authority fiduciary responsibility for public drainage systems, provide due process when determining damages, and provide an appeal process.</p>
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