

**Board of Water and Soil Resources****Proposed Permanent Rules Relating to Local Water Management****8410.0010 SCOPE.**

Subpart 1. **Application.** ~~Upon adoption, Parts 8410.0010 to 8410.0180~~ 8410.0160 apply to the general administration of metropolitan watershed management activities and to ten-year plan amendments to existing plans made approved by the board one year or later after January 1, 1995 the effective date of this section, except when a watershed management organization requests approval of a ten-year plan amendment or portions of an amendment under parts 8410.0010 to 8410.0160 within one year of the effective date of this section. If no plan has been submitted to the board by August 3, 1992, any plan thereafter submitted must be in compliance with parts 8410.0010 to 8410.0180. A watershed management organization ~~must~~ shall amend its plan ~~consistent with parts 8410.0010 to 8410.0180~~ and submit amendments to the board according to its amendment schedule and amendment procedures ~~outlined in part 8410.0140, but not later than ten years from the date of initial plan approval~~ consistent with this chapter.

Subp. 2. [See repealer.]

**8410.0020 DEFINITIONS.**

Subpart 1. **Scope Applicability.** The definitions in this part and in Minnesota Statutes, section 103B.205, apply to parts 8410.0010 to 8410.0180 and have the meanings given them.

[For text of subp 2, see M.R.]

Subp. 3. **Capital improvement.** "Capital improvement" means a physical improvement that has an extended useful life. A capital improvement is not directed toward maintenance of an in-place system during its life expectancy.

Subp. 3a. **Capital improvement program.** "Capital improvement program" has the meaning given in Minnesota Statutes, section 103B.205, subdivision 3.

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. **Groundwater plan.** "Groundwater plan" means a county plan approved by the board and adopted under Minnesota Statutes, section 103B.255.

[For text of subp 7, see M.R.]

Subp. 8. **Local government unit ~~or unit.~~** "Local government unit" ~~or "unit"~~ has the meaning given it in Minnesota Statutes, section 473.852, subdivision 7.

Subp. 8a. **Local water plan.** "Local water plan" means a local water management plan prepared according to Minnesota Statutes, section 103B.235.

Subp. 8b. **Metropolitan Council.** "Metropolitan Council" means the Metropolitan Council created by Minnesota Statutes, section 473.123.

[For text of subp 9, see M.R.]

Subp. 10. [See repealer.]

Subp. 11. [See repealer.]

Subp. 12. [See repealer.]

Subp. 13. [See repealer.]

Subp. 14. **Official controls.** "Official controls" has the meaning given it in Minnesota Statutes, section 473.852, subdivision 9.

[For text of subp 15, see M.R.]

Subp. 15a. **Plan review agencies.** "Plan review agencies" means the Metropolitan Council, the Department of Agriculture, the Department of Health, the Department

of Natural Resources, the Pollution Control Agency, and the Board of Water and Soil Resources.

Subp. 16. **Plan review authorities.** "Plan review authorities" means the Metropolitan Council, the Department of Agriculture, the Department of Health, the Department of Natural Resources, the Pollution Control Agency, the Board of Water and Soil Resources, and counties, cities, towns, and soil and water conservation districts partially or wholly within the watershed management organization as defined in Minnesota Statutes, section 103B.231, ~~subdivisions~~ subdivision 7, 8, and 9.

[For text of subp 17, see M.R.]

Subp. 18. **Seven-county metropolitan area or metropolitan area.** "Seven-county metropolitan area" ~~means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, excluding the corporate boundaries of the city of New Prague~~ or "metropolitan area" has the meaning given in Minnesota Statutes, section 473.121, subdivision 2.

Subp. 19. [See repealer.]

Subp. 19a. **Ten-year plan amendment.** "Ten-year plan amendment" means a comprehensive amendment of a watershed management plan done not less than five years and not more than ten years after approval of the current plan by the Board of Water and Soil Resources. Ten-year plan amendments are typically done every ten years and are commonly referred to as plan revisions, revised plans, or plan updates.

[For text of subps 20 to 22, see M.R.]

Subp. 23. **Wetlands.** ~~"Wetlands" means waters of the state identified as wetlands~~ under has the meaning given in Minnesota Statutes, section 103G.005, subdivision 19, paragraph (a).

Subp. 24. [See repealer.]

**8410.0030 ~~CONTENT OF JOINT POWERS AGREEMENTS.~~**

Subpart 1. **Requirements.** In addition to a description of any authorities adopted under the content requirements of joint powers agreements as outlined in Minnesota Statutes, section 103B.211, subdivision 1, joint powers agreements establishing a watershed management organization ~~must~~ or amending an existing joint powers agreement shall, at a minimum, contain the following items:

- A. a purpose statement consistent with Minnesota Statutes, section 103B.201;
- B. a section defining the powers and duties of the organization;
- ~~B~~ C. an official map based on parcels or a complete legal description defining the boundary of the organization;
- ~~C.~~ ~~a requirement to adopt rules of order and procedure;~~
- D. a section defining how the organization's members will be represented, with the total number of members on a joint powers board to be at least three;
- E. a section outlining meetings to be scheduled at least annually;
- F. a notification process for the agenda, location, and time of meetings;
- ~~D~~ G. a process procedures for establishing an annual budget and annual establishment of a work plan and budget;
- ~~E.~~ ~~a formula for determining each member's share of the annual operating budget;~~
- ~~F.~~ ~~a statement of how member appointees are to be compensated;~~
- ~~G~~ H. a procedure providing for the establishment of citizen and technical an advisory committees committee or other means of public participation;
- ~~H.~~ ~~a section defining the powers and duties of the organization;~~

I. a formula for determining the share of the annual operating budget for each of the organization's members or a description of revenue generating authorities the organization will utilize;

~~I~~ J. a section establishing the duties and terms of the officers of the organization;

~~J.~~ ~~a notification process on the location and time of meetings;~~

~~K.~~ ~~a section defining the voting requirements for decision making and capital improvements consistent with Minnesota Statutes, section 103B.211, subdivision 1, paragraph (c);~~

~~L.~~ ~~a section outlining meetings to be scheduled at least annually;~~

~~M~~ K. the process and responsibilities of the organization and its members for filling vacancies consistent with Minnesota Statutes, section 103B.227, subdivisions 1 and 2;

L. a section specifying the compensation for members of a joint powers board;

M. a section defining the voting requirements for decision making and capital improvements consistent with Minnesota Statutes, section 103B.211, subdivision 1, paragraph (c);

N. a requirement to adopt rules of order and procedure; and

~~N~~ O. the duration of the agreement and a process for dissolution that provides for at least 90 days' notice of the intent to dissolve to the affected counties and the board; ~~and~~

~~O.~~ ~~a section defining how the membership will be represented, with the total number of representatives to be at least three.~~

Subp. 2. **Updating.** Joint powers agreements must be updated if necessary to be in conformance with this chapter ~~no later than July 27, 1993,~~ as determined by the board, before the board makes a decision on a draft plan or plan amendment.

[For text of subp 3, see M.R.]

#### **8410.0040 REMOVAL OF ORGANIZATION REPRESENTATIVES.**

Subpart 1. Removal for violations. A manager of a watershed district or a member of a joint powers board may be removed from the position by a majority vote of the appointing authority before term expiration for violation of a code of ethics or bylaws of the watershed management organization or appointing authority or for malfeasance, nonfeasance, or misfeasance, after being provided an opportunity for a hearing before the appointing authority.

Subp. 2. Removal; elected officials, at-will members. ~~Managers~~ A member of a joint powers board who is holding the position as an elected official who are not reelected, is no longer serving in that position or are who is serving an indefinite term at the pleasure of the appointing authority, may be removed by the appointing authority at will. A decision of the appointing authority may be appealed to the Board of Water and Soil Resources.

#### **8410.0045 ISSUE IDENTIFICATION AND ASSESSMENT.**

##### Subpart 1. Priority issues.

A. Each plan shall identify priority issues in consideration of:

(1) water management problems, including prevention of future water management problems;

(2) funding levels; and

(3) regional, county, city, state, and federal water management priorities that are identified under this part.

B. Priority issues must be evaluated, addressed, and prioritized in the goals and implementation sections of the plan according to parts 8410.0080 and 8410.0105.

Subp. 2. **Advisory committee.** Watershed districts must comply with Minnesota Statutes, sections 103D.331 and 103D.337. All other organizations must establish an advisory committee, committees, or other means of public and technical participation acceptable to the board, for the purpose of making recommendations on a plan or ten-year plan amendment. The recommendations must address the issues identified under subpart 7. The process must be summarized in the plan or ten-year plan amendment.

Subp. 3. **Plan review agency notification and involvement in plan development.** Before development of a plan or ten-year plan amendment, an organization must send notification to each plan review agency of plan initiation and correspondence requesting the management expectation for the plan review agency's priority issues, summaries of relevant water management goals, and water resource information. The organization must allow at least 60 days for the information to be submitted. For information received within the prescribed time period, the organization must take into consideration the goals of the plan review agencies and identify in the plan or plan amendment any inconsistencies with the organization's goals.

Subp. 4. **Review of local issues and controls.** Before development of a plan or ten-year plan amendment, an organization must send notification to each county, city, township, and soil and water conservation district wholly or partially within the organization, and to known stakeholders including the Minnesota Department of Transportation, of plan initiation and correspondence requesting input that includes local water-related issues, water management goals, official controls, and programs. The organization must allow at least 60 days for the information to be submitted. Known stakeholders include, but are not limited to, any entity that requests to be placed on the organization's mailing list. For information received within the prescribed time period, the organization must take into consideration the local water management goals and identify in the plan or plan amendment any inconsistencies with the organization's goals.

Subp. 5. **Initial planning meeting.** In the development of a plan or ten-year plan amendment and after completion of the time requirements under subparts 3 and 4, an organization must hold an initial planning meeting presided over by the organization's governing body to receive, review, and discuss input. Written notification must be made to the plan review authorities and known stakeholders including affected counties, cities, and towns and the Minnesota Department of Transportation. Legal notice must be posted on the organization's Web site and comply with open meeting law requirements. All notifications must occur at least two weeks before the meeting. The plan must document the public input.

Subp. 6. **Relationship with other programs.** In consideration of subpart 1, item A, subitem (3), a plan or ten-year plan amendment shall identify and consider all relevant plans and programs in setting priority issues. An organization must coordinate its planning activities with contiguous organizations and with counties and cities conducting water planning within the boundaries of the organization.

Subp. 7. **Assessment of issues and identification of priority issues.** In developing a plan or ten-year plan amendment, an organization must identify priority issues after assessing available information including the input received under this part and data and trend analyses under part 8410.0060. The input received must be summarized and the assessment process for evaluating issues received, and goals received from the plan review authorities, must be included in the plan or ten-year plan amendment. The success of implementing the previous plan, if any, must be summarized and considered in identifying priority issues.

#### **8410.0050 EXECUTIVE SUMMARY.**

Each plan ~~must~~ shall have a section entitled "Executive Summary." The summary ~~should outline~~ must include:



A. the purpose of the watershed management organization; the membership of the organization's board of managers; the general boundaries of the organization; a brief history of the organization; a summary of the organization's goals, problems, and potential solutions; and the general content of required local plans.

B. a map of the organization;

C. the primary issues addressed in the plan;

D. the main goals in the plan;

E. the major actions in the plan; and

F. the responsibilities of local governments related to implementation of the plan including any changes in responsibilities from the previous plan.

#### **8410.0060 LAND AND WATER RESOURCE INVENTORY RESOURCES.**

Subpart 1. **Required Requirements.** Each plan must contain ~~an inventory of water resource and physical factors affecting the water resources based on existing records and publications. If data publications and maps are available at a convenient central location, they may be included by reference. The plan must include a brief summary of the data and must identify where the publication can be obtained. At a minimum, the information in subparts 2 to 11 must be included in the plan. Subparts 2 and 4, item E, may be in the local plan instead of the watershed management organization plan.~~ information and a general analysis based on existing records, plans, and publications for the elements listed in items A to M or from a previous plan of the organization or a county groundwater plan. Information may be incorporated by reference if the data is generally described in the plan and the complete data and analysis is in a freely accessible location that is specified. At a minimum, the plan must include a map of the surface water resources within the boundaries of the organization. Elements to include are:

A. topography;

- B. soil;
- C. general geology;
- D. precipitation;
- E. surface water resources including streams, lakes, wetlands, public waters, and public ditches;
- F. water quality and quantity including trends of key locations and 100-year flood levels and discharges;
- G. groundwater resources, including groundwater and surface water connections if defined in an approved and adopted county groundwater plan;
- H. storm water systems, drainage systems, and control structures;
- I. regulated pollutant sources and permitted wastewater discharges;
- J. fish and wildlife habitat and rare and endangered species;
- K. water-based recreation areas;
- L. existing land uses and proposed development in local and metropolitan comprehensive plans; and
- M. priority areas for wetland preservation, enhancement, restoration, and establishment.

Subp. 2. [See repealer.]

Subp. 3. [See repealer.]

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. [See repealer.]

Subp. 7. [See repealer.]

Subp. 8. [See repealer.]

Subp. 9. [See repealer.]

Subp. 10. [See repealer.]

Subp. 11. [See repealer.]

#### **8410.0080 ESTABLISHMENT OF GOALS AND POLICIES.**

Subpart 1. **Plan contents Requirements.** Each plan ~~must~~ or ten-year plan amendment shall contain specific ~~goal statements and corresponding policies relating to the overall purposes specified in Minnesota Statutes, section 103B.201.~~ measurable goals that address issues identified under subparts 2 to 8 in conjunction with the priority issues that are identified by the organization under part 8410.0045. The goals must be consistent with the intent of the metropolitan water management program purposes in Minnesota Statutes, section 103B.201, and state and federal standards. The goals ~~and policies of the watershed management organization shall~~ coordinate and attempt to avoid resolve conflict with town, city, county, regional, or state goals and policies. The goals ~~must be outlined in~~ contain sufficient detail to provide direction regarding what the ~~policies~~ goals should accomplish, provide direction to the organization's board, and allow for the success or failure of the goals ~~and policies to be~~ quantified measured. ~~The goals and policies should recognize the fundamental relationship between water quality and land use. Development of goals and policies must, at a minimum, address the issues in subparts 2 to 9. A procedure must be included to evaluate progress for each goal defined in this part at a minimum of every two years according to part 8410.0150, subpart 3, item E.~~

Subp. 2. **Water quantity.** Each plan ~~must outline goals and policies describing how storm water runoff will be managed. The maximum allowable peak runoff must be established for appropriate subwatersheds to the extent necessary to assure that the goals and policies of the organization will be met and address how runoff from developments creating more than one acre of new impervious surface will be managed with respect to~~

~~Minnesota Statutes, section 103B.3365. The plan must describe the criteria used for defining "appropriate subwatersheds." Water quantity goals must be established to address priority issues, at a minimum, considering volume, peak rate, base flow, imperviousness, or similar issues. The goals must recognize current trend direction and the fundamental relationship between water quantity and land use.~~

Subp. 3. **Water quality.** ~~Each plan must outline specific water quality goals and policies for natural surface water storage and retention systems within the organization. Goals should be related to parameters or quantities that can be measured. The relationship of land use to water quality should be considered when developing goals and policies. The goals and policies should be developed to strive for compliance with applicable water quality standards and be suitable for the intended uses of natural surface water storage and retention systems. Water quality goals must be established to address priority issues considering the uses of the water resource. The goals must recognize current trend direction and the fundamental relationship between water quality and land use. If water quality goals in the plan are less stringent than state water quality standards, the plan must acknowledge this.~~

Subp. 4. [See repealer.]

Subp. 5. [See repealer.]

Subp. 6. **Public ditch drainage systems.** ~~If Public ditch systems constructed under Minnesota Statutes, chapter 103D or 103E, are within the organization, the plan shall by policy drainage system management goals must be established. The goals must define the organization's relationship to the ditch drainage authority and. The plan may recommend whether or not there are advantages to managing the ditch drainage systems under the Metropolitan Water Management Act or through transferring the drainage authority according to Minnesota Statutes, section 103E.812, and may determine whether ditch drainage maintenance activities have the potential of adversely impacting any goal~~

of the organization. The plan must generally describe the effect of the plan on existing drainage systems.

Subp. 7. **Groundwater.** ~~If a county groundwater plan has not commenced at the time the plan or plan amendment is initiated, the organization shall assess the need and degree of involvement the organization has in groundwater management and establish appropriate goals and policies.~~ Goals must be established to address groundwater-surface water interactions defined in approved and adopted county groundwater plans that are in effect. Organizations are encouraged to establish goals to address groundwater issues identified within the area of the organization in the Twin Cities Metropolitan Area Master Water Supply Plan, source water protection plans, and local water supply plans.

Subp. 8. **Wetlands.** ~~Each plan must outline specific goals and policies regarding the management of wetlands within the organization and identify high priority areas for wetland preservation, restoration, and establishment. Wetland management goals and policies should address utilization, protection and preservation, and the enhancement or restoration of wetlands identified in the organization. Each plan must also evaluate the need to establish a wetland banking system.~~ Goals must be established for wetland management. The goals must recognize the fundamental relationship between wetland management and land use.

Subp. 9. [See repealer.]

#### **8410.0105 IMPLEMENTATION ACTIONS.**

Subpart 1. **Requirements.** Each plan shall contain prioritized implementation actions through the year the plan extends to that consists of administrative processes and programs to address the goals defined under part 8410.0080 and that is consistent with the principles of part 8410.0045, subpart 1, item A. The programs described in subparts 2 to 6 must be included in each plan unless the plan sufficiently justifies that a program or program element is not needed. Each plan shall include a procedure to evaluate progress

for the implementation actions at a minimum of every two years according to part 8410.0150, subpart 3, item E. Each plan shall:

A. include a table that briefly describes each component of the implementation actions, the schedule, estimated cost, and funding sources for each component including annual budget totals;

B. clearly define the responsibilities of the organization, the local government units, and other entities for carrying out the implementation actions;

C. define the organization's process for evaluating implementation of local water plans and procedures to address a local government unit failing to implement its local water plan or parts of its local water plan; and

D. include a procedure to establish an advisory committee, committees, or other means of public and technical participation acceptable to the board, for the purpose of making recommendations on a ten-year plan amendment.

Subp. 2. **Capital improvement program.** Each plan must consider the feasibility of implementing structural solutions for attaining the goals defined under part 8410.0080 that cannot be resolved by nonstructural, preventative actions. Each plan must include a table for a capital improvement program that identifies structural and nonstructural alternatives that would lessen capital expenditures and sets forth, by year, details of each contemplated capital improvement that includes the need, schedule, estimated cost, and funding source. The information may be combined with subpart 1, item A. In assigning priorities, consideration must be given to federal, state, regional, local, and private partners and regional and state plans.

Subp. 3. **Operation and maintenance programs.** The plan must define who is responsible for inspection, operation, and maintenance of storm water infrastructure, public works, facilities, and natural and artificial watercourses and specify any new

programs or revisions to existing programs needed to accomplish the goals defined under part 8410.0080.

Subp. 4. **Information and education program.** Each plan must provide for an information and education program in consideration of the goals defined under part 8410.0080. The program must, at a minimum, include the purpose, targeted audiences, and actions. An annual communication must be distributed to residents of the organization in compliance with Minnesota Statutes, section 103B.227, subdivision 4.

Subp. 5. **Data collection programs.** Each plan must address whether established water quality, water quantity, and other monitoring programs implemented by the organization and others are capable of producing an accurate evaluation of the progress being made toward the goals defined under part 8410.0080. The programs shall, at a minimum, include the location of sampling, the frequency of sampling, the proposed parameters to be measured, and the requirement of periodic analysis of the data. Each organization must annually submit the collected data consistent with state compatibility guidelines to the appropriate state agency for entry into public databases.

Subp. 6. **Regulatory program.** Controls or performance standards must be described in the plan, although an organization's rules in place at the time of plan approval may be referenced instead. The plan must specifically describe how the organization's controls will be implemented in coordination with local official controls. The plan must clearly distinguish between the responsibilities of the organization and the affected local government units relative to controls established according to this subpart. The enforcement process for violations of controls of the organization must be defined. Controls must take effect within two years of plan adoption by the organization. The plan must include an assessment of existing controls within the organization's jurisdiction and address any deficiencies or redundancies related to attaining the goals defined under part 8410.0080. If a plan notes the existence of certain land uses that could adversely affect the

organization's ability to achieve the goals defined under part 8410.0080, the organization must provide written notification to that unit of government specifying the issue. The following items must be considered in developing a regulatory program:

A. standards or controls that may be more restrictive than those required by the Wetland Conservation Act determined to be necessary to achieve the goals defined under part 8410.0080. Local wetland management controls must include maps or inventories of wetlands, existing comprehensive wetland protection and management plans, descriptions of existing local wetland banking programs, and procedures used in determining replacement of wetland functions and values for evaluating wetland replacement proposals;

B. standards or controls for managing storm water runoff must, at a minimum, address:

- (1) erosion and sediment transport to receiving waters;
- (2) nutrient loading and concentration; and
- (3) maximum permissible runoff rates and volumes;

C. standards or controls to address flood impacts; and

D. management programs establishing a classification system for the management of water bodies must be consistent with chapter 7050. If the organization classifications are inconsistent, the organization must petition the Pollution Control Agency to revise the classifications in chapter 7050.

Subp. 7. **Incentive programs.** The plan must define, for cost share or grant programs, if any, the general purpose, scope, time period, amount of funds, funding source, general eligibility criteria for dispersing funds, and a clear link to the goals the program addresses.

Subp. 8. **Waters restoration and protection program.**



A. A plan may implement a restoration and protection program for waters that are impaired or need to be protected. The program may involve monitoring, assessment, and water quality restoration and protection actions.

B. An organization may take the lead on developing a total maximum daily load (TMDL) or a TMDL implementation plan as a third party under Minnesota Statutes, section 114D.25, subdivision 5. The TMDL or TMDL implementation plan must be developed in coordination with, and provided to, the Pollution Control Agency for review and approval.

C. An organization may take the lead on developing a watershed restoration and protection strategy as described in Minnesota Statutes, section 114D.15, by entering into an agreement with the Pollution Control Agency.

D. An organization may submit a request as a third party for a Category 4b determination to the Pollution Control Agency as allowed under the federal Clean Water Act, section 303(d).

Subp. 9. **Trading programs.** An organization may establish and implement an environmental trading program that allows for water-related impacts to be offset at different locations than the site of impact.

Subp. 10. **Local water plans.**

A. An organization plan must specify to what degree the organization plan may be adopted by reference by a local government unit for all or part of its local water plan. Upon request of a local government unit, an organization must provide a list to the local government unit and the plan review agencies of local water plan revisions necessary for compliance with the organization plan. A local water plan may serve as a storm water pollution prevention program if it is approved by the Pollution Control Agency and it complies with the requirements of any applicable national pollutant discharge elimination system/state disposal system storm water permit.

B. A plan must include a schedule for implementation of local water plans that requires all local water plans to be adopted not less than one year but no more than two years before the local comprehensive plan is due. A plan must not deviate from the schedule. Extensions of local comprehensive plan due dates do not alter the schedule. Organizations may extend all or portions of local water plans to align with the local comprehensive plan schedule during the initial three years of transition to the revised rule. Notwithstanding local water plan schedules in previously approved plans, all local water plans must be adopted according to this subpart after December 31, 2016.

#### **8410.0140 PLAN CONTENTS; AMENDMENTS.**

##### **Subpart 1. Amendment section.**

A. Each plan must contain a section entitled "Amendments to Plan" containing the year the plan extends to and establishing the process by which ~~interim~~ amendments, as defined in this part, may be made and who may initiate the amendments.

B. A plan must extend at least five years but no more than ten years from the date the board approves the plan.

C. An organization must evaluate the implementation actions in its plan with the annual activity report under part 8410.0150, subpart 3, item E, at a minimum of every two years. If changes to the implementation actions are necessary as a result of the evaluation, then a plan amendment is required unless otherwise provided under subpart 1a.

Subp. 1a. **Changes not requiring an amendment.** These changes to plans must be distributed according to subpart 5 with a version showing deleted text as stricken and new text as underlined. Amendments to plans are not required for changes such as:

A. formatting or reorganization of the plan;

B. revision of a procedure meant to streamline administration of the plan;

C. clarification of existing plan goals or policies;

- D. inclusion of additional data not requiring interpretation;
- E. expansion of public process; or
- F. adjustments to how an organization will carry out program activities within its discretion.

Subp. 2. **General Amendment procedure.** All amendments to a plan must adhere to the review process provided in Minnesota Statutes, section 103B.231, subdivision 11, except when the proposed amendments ~~constitute~~ are determined to be minor amendments and according to the following provisions:

~~A. the watershed management organization has held a public meeting to explain the amendments and published a legal notice of the meeting twice, at least seven days and 14 days before the date of the meeting;~~ the board has either agreed that the amendments are minor or failed to act within five working days of the end of the comment period specified in item B unless an extension is mutually agreed to with the organization;

~~B. the organization has sent copies of the amendments to the affected local units of government, the Metropolitan Council, and the state review agencies~~ plan review authorities for review and comment allowing at least 30 days for receipt of comments, has identified the minor amendment procedure is being followed, and directed that comments be sent to the organization and the board; and

C. no county board has filed an objection to the amendments with the organization and the board within the comment period specified in item B unless an extension is mutually agreed upon by the county and the organization;

~~€ D. the board has either agreed that the amendments are minor or failed to act within 45 days of receipt of the amendments.~~ the organization has held a public meeting to explain the amendments and published a legal notice of the meeting twice, at least seven days and 14 days before the date of the meeting; and

E. the amendments are not necessary to make the plan consistent with an approved and adopted county groundwater plan.

Subp. 3. [See repealer.]

Subp. 4. **Form of amendments.** Draft and final amendments must be bound paper pages unless a receiving entity agrees in advance to receive an amendment in electronic format. Draft amendments must show deleted text as stricken and new text as underlined. Unless the entire document is reprinted, all final amendments adopted by the organization must be printed in the form of replacement pages for the plan; with each page of which must:

~~A. on draft amendments being considered, show deleted text as stricken and new text as underlined;~~

~~B. be renumbered as appropriate; and~~

~~C. include each page including the effective date of the amendment.~~

Subp. 5. **Distribution of amendments.** Each organization must maintain a distribution list of agencies and individuals who have received a copy of the plan ~~and~~. An organization shall distribute copies of amendments to all on the distribution list and post the amendments on the organization's Web site within 30 days of adoption. ~~All organizations should consider sending drafts of proposal amendments to all plan review authorities to seek their comments before establishing a hearing date or commencing the formal review process.~~

#### **8410.0150 ANNUAL REPORTING AND EVALUATION REQUIREMENTS.**

Subpart 1. **Requirement for annual ~~financial~~, activity, and audit reports.**

A. An organization shall annually:

(1) within 120 days of the end of the watershed management organization's fiscal calendar year, each organization shall submit to the board a financial report, submit to the board an activity report, for the previous calendar year; and

(2) within 180 days of the end of the organization's fiscal year, submit to the board and the state auditor's office an audit report for the preceding fiscal year if the organization has expended or accrued funds during this time, except as provided in Minnesota Statutes, section 6.756. When a county or city audit report contains the financial statements for an organization, the organization must submit to the board excerpts from the audit report concerning the organization within 30 days of completion of the audit report. The audit report must be prepared by a certified public accountant or the state auditor in the format required by the Government Accounting Standards Board.

B. These The reports may be combined into a single document. The audit report for the preceding fiscal year must be prepared by a certified public accountant or the state auditor and forwarded to the state auditor's office within 120 days of the end of the fiscal year.

Subp. 2. [See repealer.]

Subp. 3. **Content of annual activity report.** The annual activity report must include the following information:

A. a list of the organization's board members, ~~advisory committee members, and board member vacancies at the end of the reporting year, including the names of designated officers and members and information on how members can be contacted, and indicating~~ the governmental organization that each board member represents for joint powers organizations and the county that each member is appointed by for watershed districts;

B. ~~a list of organization employees and consultants, including mailing addresses and telephone numbers~~ identification of a contact person capable of answering questions

about the organization including a postal and electronic mailing address and telephone number;

C. ~~an assessment of the previous year's annual work plan that indicates whether the stated goals and objectives~~ activities were achieved and, if they were not achieved, indicates why they could not be achieved completed including the expenditures of each activity with respect to the approved budget unless included in the audit report;

D. ~~a projected work plan and budget for the next current year indicating the desired goals and objectives~~ specifying which activities will be undertaken;

E. ~~a summary of the permits or variances issued or denied under ordinances or rules required by the organization or local plan and any enforcement actions initiated by either the organization or its local units of government;~~ at a minimum of every two years, an evaluation of progress on goals and the implementation actions, including the capital improvement program, to determine if amendments to the implementation actions are necessary according to part 8410.0140, subpart 1, item C, using the procedures established in the goals and implementation sections of the plan under parts 8410.0080, subpart 1, and 8410.0105, subpart 1;

F. ~~a summary of water quality significant trends of monitoring data collected by the organization or its local units of government~~ required by part 8410.0105, subpart 5;

G. ~~an evaluation of the status of local plan adoption and implementation based on a review of the local unit of governments' activities by the organization during the past year;~~

H G. ~~a copy of the written annual~~ communication required by part 8410.0100 8410.0105, subpart 3 4;

~~F~~ H. the organization's activities related to the biennial solicitations for interest proposals for legal, professional, or technical consultant services under Minnesota Statutes, section 103B.227, subdivision 5;

I. an evaluation of the status of local water plan adoption and local implementation of activities required by the watershed management organization according to part 8410.0105, subpart 1, items B and C, during the previous year;

~~J. an assessment of changes in fund balances, including a description of the costs of each program element with respect to the overall annual budget; and~~

~~K~~ J. the status of any locally adopted ~~wetland banking program.~~ ordinances or rules required by the organization including their enforcement; and

K. a summary of the permits and variances issued or denied and violations under rule or ordinance requirements of the organization or local water plan.

Subp. 3a. **Watershed management organization Web sites.** An organization shall have a Web site that, at a minimum, contains the location, time, agenda, and minutes for organization meetings; contact information for the organization including a person capable of answering questions about the organization; the current watershed management plan; annual activity reports and audits for the past three years; rules and regulatory program, if any; a list of the organization's board members including identification of designated officers and the governmental organization that each board member represents for joint powers organizations and the county that each board member is appointed by for watershed districts; and a list of employees including postal and electronic mailing addresses and telephone numbers. The Web site shall be kept current on a monthly basis or more frequently.

Subp. 4. **Procedure for state audit.** The board shall use the procedure described in items A to D to determine whether to order a state financial or performance audit of an organization.

[For text of item A, see M.R.]

B. The executive director shall determine whether there is a basis for a complaint before reporting the complaint to the board. The executive director shall ensure that the affected organization is and the plan review agencies are notified of the complaint and given an opportunity to respond to, or comment on, the allegations before determining whether there is a basis for the complaint.

C. If the executive director determines there is a basis for the complaint, the ~~complaint shall be reported to the board.~~ The affected organization shall be given an opportunity to appear before the ~~board at the time the complaint is reported to it~~ board's dispute resolution committee established under Minnesota Statutes, section 103B.101, subdivision 10, and respond to the allegations in the complaint. The complainant shall also be given an opportunity to ~~appear~~ be heard.

D. After ~~having the complaint reported to it, and after~~ providing an opportunity for the organization and the complainant to be heard ~~by it~~, the board shall decide whether to order a state financial or performance audit of the organization. The cost of state financial and performance audits shall be paid for by the organization.

#### **8410.0160 ~~GENERAL~~ PLAN STRUCTURE.**

Subpart 1. Requirement. Each local water plan must, at a minimum, meet the requirements for local water management plans in Minnesota Statutes, section 103B.235, and this part, except as provided by the watershed management organization plan under part 8410.0110 8410.0105, subpart 3 10. ~~Each local plan must include sections containing a table of contents; purpose; water resource related agreements; executive summary; land and water resource inventory; establishment of goals and policies; relation of goals and policies to local, regional, state, and federal plans, goals, and programs; assessment of problems; corrective actions; financial considerations; implementation priorities; amendment procedures; implementation program; and an appendix.~~



Subp. 2. **Local comprehensive plan.** Each community should consider including its local government unit must include the local water plan as a chapter of its local comprehensive plan. Each local plan shall be adopted within two years of the board's approval of the last organization plan that affects local units of government. All local comprehensive plans must be consistent with local water plans adopted under this part.

Subp. 3. **Plan contents.** Each local water plan, in the degree of detail required in the organization plan, must contain the following:

- A. an executive summary that summarizes the highlights of the local water plan;
- B. appropriate water resource management-related agreements that have been entered into by the local community must be summarized, including joint powers agreements related to water management that the local government unit may be party to between itself and watershed management organizations, adjoining communities, or private parties;
- C. the existing and proposed physical environment and land use must be described. Drainage areas and the volumes, rates, and paths of storm water runoff must be defined. Data may be incorporated by reference as allowed under parts 8410.0060 and 8410.0105, subpart 10, or the local comprehensive plan;
- D. an assessment of existing or potential water resource-related problems must be summarized. The problem assessment must be completed for only those areas within the corporate limits of the local government unit and similar to the process under part 8410.0045, subpart 7; and
- E. a local implementation program through the year the local water plan extends must describe nonstructural, programmatic, and structural solutions to problems identified in item D. The program must not jeopardize achievement of the goals of an organization's plan. The implementation components must be prioritized consistent with the principles of part 8410.0045, subpart 1, item A. Local water plans must prioritize the implementation

components of an organization plan consistent with the organization priorities set forth under part 8410.0105 only for implementation components that must be facilitated by the local government unit. Local official controls must be enacted within six months of approval of the local water plan by the organization. The program shall:

(1) include areas and elevations for storm water storage adequate to meet performance standards or official controls established in the organization plan;

(2) define water quality protection methods adequate to meet performance standards or official controls in the organization plan and identify regulated areas;

(3) clearly define the responsibilities of the local government unit from that of an organization for carrying out the implementation components;

(4) describe official controls and any changes to official controls relative to requirements of the organization's plan;

(5) include a table that briefly describes each component of the implementation program and clearly details the schedule, estimated cost, and funding sources for each component including annual budget totals; and

(6) include a table for a capital improvement program that sets forth, by year, details of each contemplated capital improvement that includes the schedule, estimated cost, and funding source.

Subp. 4. **Amendment procedures.** A section entitled "Amendments to Plan" must establish the process by which amendments may be made. The amendment procedure shall conform with the plan amendment procedures in the organization plans that affect the community.

Subp. 5. **Submittal and review.** After consideration and before adoption, the local water plan or local water plan amendments shall be submitted for review according to Minnesota Statutes, section 103B.235.

Subp. 6. **Adoption and implementation.** Each local water plan shall be adopted not less than one year but no more than two years before the local comprehensive plan is due. Extensions of local comprehensive plan due dates do not alter the local water plan schedule. Each local water plan must be adopted and implemented in accordance with the time requirements of Minnesota Statutes, section 103B.235, subdivision 4. Each local government unit must notify affected organizations and the Metropolitan Council within 30 days of adoption and implementation of the local water plan or local water plan amendment, including the adoption of necessary official controls.

#### **8410.0180 DETERMINATIONS OF FAILURE TO IMPLEMENT.**

[For text of subp 1, see M.R.]

~~Subp. 2. **Establishing cause Petition.** Before the board's involvement in determinations of whether a plan is being properly implemented, The board shall first may establish just cause for the determination determining whether a plan is being properly implemented by review of a written complaint from an aggrieved party or through conclusions arrived at by board staff under the review of an organization's annual report. A complaint or appeal made by an aggrieved party under Minnesota Statutes, section 103B.231, subdivision 13, petition. A petition may be made by a plan review agency, board staff, a local government unit, or 50 residents with land in the area that is subject to the petition. A petition must be made in writing to the executive director of the board and must summarize the issues at dispute and the efforts the party made to resolve the problem.~~

#### ~~Subp. 3. **Board staff responsibilities** Petition review process.~~

~~A. Board staff may investigate issues relating to alleged failure to implement plans primarily by response from written complaint from an aggrieved party or by review of the organization's annual report. Within 30 days of receiving a written complaint petition, board staff are required to send a copy to the plan review agencies and initiate a preliminary investigation of the facts as they appear based on personal observation,~~

assessment including a review of all relevant documents, review of comments from the plan review agencies, and discussions with involved parties. The results of this the preliminary investigation assessment shall be reviewed with the executive director, and the board's legal counsel if appropriate, before preparation of a report. The report shall ascertain whether a failure to implement exists, define the exact nature of the failure to implement, and recommend a course of action. and a report prepared if the executive director determines just cause exists. Just cause may be established if no annual report or audit has been submitted compliant with the requirements in part 8410.0150, or if a plan has not been amended according to part 8410.0140, subpart 1, item C. Just cause may be established for other reasons according to subpart 3a. The executive director of the board may combine multiple petitions involving the same organization and process as one decision. If the executive director determines just cause does not exist, the petitioner, the organization, and the plan review agencies shall be provided written notice of the decision. The executive director may require more frequent reporting and thorough evaluation than required under part 8410.0150.

B. ~~On completion of a report regarding a complaint or review of an annual report, the staff shall send a copy of its report by certified mail to the organization members of record to set a time and place for a meeting agreeable to all parties to informally discuss the contents of the report if a conflict exists. The complainant and any other aggrieved or affected party shall also be sent a copy of the report by certified mail and shall be invited to attend any meeting held to discuss the report. If just cause is established, board staff shall conduct further investigation and prepare a report. The report shall conclude whether a failure to implement exists, define the exact nature of the failure to implement, and recommend a course of action. The report shall be sent to the petitioner, the organization, the plan review agencies, and affected local governments. Board staff shall provide written notification to all those to whom it sent the report of the time and location of a meeting to discuss the contents of the report.~~

~~C. The affected organization shall be~~ is allowed 30 60 days after the meeting in item B to hold a public meeting hearing to develop a formal course of action if the joint powers agreement requires that process. Any and send a formal response shall be sent by certified mail to the board and any known aggrieved or affected party within 15 days of the meeting parties.

~~D. The affected organization and any aggrieved or affected party may not appeal to the board's dispute resolution committee established under Minnesota Statutes, section 103B.101, subdivision 10, to hear and resolve disputes over plan implementation until after the meeting has been held according to item B.~~

~~E. Based on information discovered at the meeting held according to item B, or receipt of the formal response received from the organization according to item C, board staff shall report to the board at a regular meeting as to the status of the dispute. If the board needs to take further action to resolve the dispute, board staff shall recommend the appropriate course of action, consulting with the board's legal counsel as appropriate.~~

Subp. 3a. **Criteria and standards for determinations.** In making a determination on the petition, the board must consider:

A. whether the joint powers agreement and watershed management plan complies with this chapter and Minnesota Statutes, section 103B.211, subdivision 1;

B. whether the organization is actively implementing a plan that has been approved by the board within the previous ten years. At a minimum, the organization is addressing its priority issues in the plan, is carrying out its implementation actions, has a current monitoring program to assess whether progress is being made on goals, and has made progress on goals for the priority issues;

C. whether the organization is actively implementing the actions adopted in its plan that were derived from a county groundwater plan that has been approved by the board and adopted by the county;

D. whether the organization has a contact person that is capable of answering questions about the organization and able to assist local governments and citizens in resolving their concerns;

E. whether the organization submits annual activity reports and audits that comply with the requirements in part 8410.0150;

F. whether an evaluation under Minnesota Statutes, section 103B.102, of an organization's performance, financial, and activity information resulted in any corrective actions or areas of concern;

G. whether the organization sufficiently implemented the actions in its previous plan and made progress on attaining the goals in its previous plan;

H. whether the organization maintains a Web site that complies with part 8410.0150, subpart 3a; and

I. any other factors pertinent to the petition.

Subp. 4. **~~Board responsibilities~~ Determinations.**

A. ~~On receipt of the board staff's report and recommendations, the board is required to do any or all of the following~~ information under subpart 3, items B and C, the board may:

(1) do nothing further if the staff's ~~investigation finds~~ recommendation is that the subject plan is being properly implemented, provided the board concurs;

(2) advise board staff to conduct additional fact finding it considers necessary and report back to the board accordingly;

(3) ~~order the dispute resolution committee to convene to attempt to negotiate the matter and to advise the board further; or~~ direct the organization to develop an amended plan within a reasonable time period;

(4) direct staff or the dispute resolution committee to attempt to resolve the matter and to advise the board further; or

~~(4)~~ (5) issue findings of fact and conclusions of its investigation advising the affected organizations, county, or counties of the documented failure to implement the subject plan and advise the appropriate unit of government ~~of~~ to complete its responsibility ~~to implement the plan~~ under Minnesota Statutes, section 103B.231, subdivision 3, paragraph (b) or (c), within a prescribed period of time.

B. The board shall provide written notice of the determination to the petitioner, the organization, other local governments, and the plan review agencies.

B C. On issuance of its findings under ~~subpart 3~~, item A, subitem (5), the board shall notify the appropriate counties to proceed as required by Minnesota Statutes, section 103B.231, subdivision 3, paragraph (b) or (c), as applicable. If a county fails to act after it is notified, the board shall notify state agencies that they may initiate their ~~prerogatives~~ responsibilities under Minnesota Statutes, section 103B.231, subdivision 3, paragraph (g).

~~C. The board's dispute resolution committee has the following duties and responsibilities with respect to disputes relating to failure to implement a plan:~~

~~(1) convene and hear appeals from both aggrieved parties and organizations not satisfied with the findings and recommendations of the board's staff report presented at the meeting required by subpart 2; and~~

~~(2) convene at the pleasure of the board as prescribed by item A to attempt to negotiate and settle disputes over determinations relating to implementation of plans and to further advise the board.~~

**Subp. 5. Appeal of determinations or decisions.**

A. No appeal may be made to the board for the board's dispute resolution committee established under Minnesota Statutes, section 103B.101, subdivision 10, to

hear and resolve disputes concerning plan implementation until after the procedures in subpart 4 have been completed or until after the executive director has made a decision that just cause does not exist under subpart 3, item A.

B. The determination of the board under subpart 4 or the decision of the executive director that just cause does not exist under subpart 3, item A, is final if not appealed to the executive director of the board within 30 days after the date on which the notice of determination or decision is sent to those required to receive notice. A written appeal may be made by the petitioner or the organization. Within 30 days after receiving the appeal, the board, its dispute resolution committee, or its executive director must decide whether to hear the appeal. An appeal may be denied and not heard if the board, its dispute resolution committee, or its executive director decide the appeal is without sufficient merit, trivial, or brought solely for purposes of delay.

C. After an appeal is granted, the appeal must be decided by the board within 60 days after submittal of written briefs for the appeal and conclusion of a hearing by the dispute resolution committee. Parties to the appeal are the appellant and the organization. The board or its executive director may elect to combine multiple appeals involving the same organization and process as one decision. An appeal of a board decision may be taken to the state Court of Appeals and must be considered an appeal from a contested case decision for purposes of judicial review under Minnesota Statutes, sections 14.63 to 14.69.

Subp. 6. **Determination necessary for watershed district termination.** A determination of failure to implement under subpart 4, item A, subitem (5), is necessary before the board may terminate a watershed district under Minnesota Statutes, section 103B.221.

**REPEALER.** Minnesota Rules, parts 8410.0010, subpart 2; 8410.0020, subparts 4, 5, 10, 11, 12, 13, 19, and 24; 8410.0060, subparts 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11; 8410.0070;



8410.0080, subparts 4, 5, and 9; 8410.0090; 8410.0100; 8410.0110; 8410.0120;  
8410.0130; 8410.0140, subpart 3; 8410.0150, subpart 2; and 8410.0170, are repealed.