

1.1 **Board of Water and Soil Resources**

1.2 **Adopted Permanent Rules Relating to Local Water Management**

1.3 **8410.0010 SCOPE.**

1.4 Subpart 1. **Application.** Parts 8410.0010 to 8410.0160 apply to the general
1.5 administration of metropolitan watershed management activities and to ten-year plan
1.6 amendments approved by the board one year or later after the effective date of this section,
1.7 except when a watershed management organization requests approval of a ten-year plan
1.8 amendment or portions of an amendment under parts 8410.0010 to 8410.0160 within one
1.9 year of the effective date of this section. A watershed management organization shall
1.10 amend its plan and submit amendments to the board according to its amendment schedule
1.11 and amendment procedures consistent with this chapter.

1.12 Subp. 2. [See repealer.]

1.13 **8410.0020 DEFINITIONS.**

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

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

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

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

1.23 Subp. 4. [See repealer.]

1.24 Subp. 5. [See repealer.]

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

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

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

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

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

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

2.11 Subp. 10. [See repealer.]

2.12 Subp. 11. [See repealer.]

2.13 Subp. 12. [See repealer.]

2.14 Subp. 13. [See repealer.]

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

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

2.18 Subp. 15a. **Plan review agencies.** "Plan review agencies" means the Metropolitan
2.19 Council, the Department of Agriculture, the Department of Health, the Department
2.20 of Natural Resources, the Pollution Control Agency, and the Board of Water and Soil
2.21 Resources.

2.22 Subp. 16. **Plan review authorities.** "Plan review authorities" means the
2.23 Metropolitan Council, the Department of Agriculture, the Department of Health, the
2.24 Department of Natural Resources, the Pollution Control Agency, the Board of Water and

3.1 Soil Resources, and counties, cities, towns, and soil and water conservation districts
3.2 partially or wholly within the watershed management organization as defined in Minnesota
3.3 Statutes, section 103B.231, subdivision 7.

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

3.5 Subp. 18. **Seven-county metropolitan area or metropolitan area.** "Seven-county
3.6 metropolitan area" or "metropolitan area" has the meaning given in Minnesota Statutes,
3.7 section 473.121, subdivision 2.

3.8 Subp. 19. [See repealer.]

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

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

3.15 Subp. 23. **Wetlands.** "Wetlands" has the meaning given in Minnesota Statutes,
3.16 section 103G.005, subdivision 19, paragraph (a).

3.17 Subp. 24. [See repealer.]

3.18 **8410.0030 JOINT POWERS AGREEMENTS.**

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

3.24 A. a purpose statement consistent with Minnesota Statutes, section 103B.201;

- 4.1 B. a section defining the powers and duties of the organization;
- 4.2 C. an official map based on parcels or a legal description defining the boundary
4.3 of the organization;
- 4.4 D. a section defining how the organization's members will be represented, with
4.5 the total number of members on a joint powers board to be at least three;
- 4.6 E. a section outlining meetings to be scheduled at least annually;
- 4.7 F. a notification process for the agenda, location, and time of meetings;
- 4.8 G. procedures for annual establishment of a work plan and budget;
- 4.9 H. a procedure for the establishment of an advisory committee or other means
4.10 of public participation;
- 4.11 I. a formula for determining the share of the annual operating budget for each
4.12 of the organization's members or a description of revenue generating authorities the
4.13 organization will utilize;
- 4.14 J. a section establishing the duties and terms of the officers of the organization;
- 4.15 K. the process and responsibilities of the organization and its members for filling
4.16 vacancies consistent with Minnesota Statutes, section 103B.227, subdivisions 1 and 2;
- 4.17 L. a section specifying the compensation for members of a joint powers board;
- 4.18 M. a section defining the voting requirements for decision making and capital
4.19 improvements consistent with Minnesota Statutes, section 103B.211, subdivision 1,
4.20 paragraph (c);
- 4.21 N. a requirement to adopt rules of order and procedure; and
- 4.22 O. the duration of the agreement and a process for dissolution that provides for
4.23 at least 90 days' notice of the intent to dissolve to the affected counties and the board.

5.1 Subp. 2. **Updating.** Joint powers agreements must be in conformance with this
 5.2 chapter, as determined by the board, before the board makes a decision on a draft plan
 5.3 or plan amendment.

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

5.5 **8410.0040 REMOVAL OF ORGANIZATION REPRESENTATIVES.**

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

5.12 Subp. 2. **Removal; elected officials, at-will members.** A member of a joint powers
 5.13 board who is holding the position as an elected official who is no longer serving in that
 5.14 position or who is serving an indefinite term at the pleasure of the appointing authority,
 5.15 may be removed by the appointing authority at will.

5.16 **8410.0045 ISSUE IDENTIFICATION AND ASSESSMENT.**

5.17 Subpart 1. **Priority issues.**

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

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

5.21 (2) funding levels; and

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

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

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

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

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

7.1 organization must take into consideration the local water management goals and identify
7.2 in the plan or plan amendment any inconsistencies with the organization's goals.

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

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

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

7.24 **8410.0050 EXECUTIVE SUMMARY.**

7.25 Each plan shall have a section entitled "Executive Summary." The summary must
7.26 include:

- 8.1 A. the purpose of the watershed management organization;
- 8.2 B. a map of the organization;
- 8.3 C. the primary issues addressed in the plan;
- 8.4 D. the main goals in the plan;
- 8.5 E. the major actions in the plan; and
- 8.6 F. the responsibilities of local governments related to implementation of the
- 8.7 plan including any changes in responsibilities from the previous plan.

8.8 **8410.0060 LAND AND WATER RESOURCES.**

8.9 Subpart 1. **Requirements.** Each plan must contain information and a general

8.10 analysis based on existing records, plans, and publications for the elements listed in

8.11 items A to M or from a previous plan of the organization or a county groundwater plan.

8.12 Information may be incorporated by reference if the data is generally described in the plan

8.13 and the complete data and analysis is in a freely accessible location that is specified.

8.14 At a minimum, the plan must include a map of the surface water resources within the

8.15 boundaries of the organization. Elements to include that must be included in each plan are:

- 8.16 A. topography;
- 8.17 B. soil;
- 8.18 C. general geology;
- 8.19 D. precipitation;
- 8.20 E. surface water resources including streams, lakes, wetlands, public waters,
- 8.21 and public ditches;
- 8.22 F. water quality and quantity including trends of key locations and 100-year
- 8.23 flood levels and discharges;

- 9.1 G. groundwater resources, including groundwater and surface water connections
9.2 if defined in an approved and adopted county groundwater plan;
- 9.3 H. storm water systems, drainage systems, and control structures;
- 9.4 I. regulated pollutant sources and permitted wastewater discharges;
- 9.5 J. fish and wildlife habitat and rare and endangered species;
- 9.6 K. water-based recreation areas;
- 9.7 L. existing land uses and proposed development in local and metropolitan
9.8 comprehensive plans; and
- 9.9 M. priority areas for wetland preservation, enhancement, restoration, and
9.10 establishment.
- 9.11 Subp. 2. [See repealer.]
- 9.12 Subp. 3. [See repealer.]
- 9.13 Subp. 4. [See repealer.]
- 9.14 Subp. 5. [See repealer.]
- 9.15 Subp. 6. [See repealer.]
- 9.16 Subp. 7. [See repealer.]
- 9.17 Subp. 8. [See repealer.]
- 9.18 Subp. 9. [See repealer.]
- 9.19 Subp. 10. [See repealer.]
- 9.20 Subp. 11. [See repealer.]

10.1 **8410.0080 ESTABLISHMENT OF GOALS.**

10.2 Subpart 1. **Requirements.** Each plan or ten-year plan amendment shall contain
10.3 specific measurable goals that address issues identified under subparts 2 to 8 in conjunction
10.4 with the priority issues that are identified by the organization under part 8410.0045. The
10.5 goals must be consistent with the intent of the metropolitan water management program
10.6 purposes in Minnesota Statutes, section 103B.201, and state and federal standards.
10.7 The goals of the organization shall coordinate and attempt to resolve conflict with
10.8 town, city, county, regional, or state goals. The goals must contain sufficient detail to
10.9 provide direction regarding what the goals should accomplish, provide direction to the
10.10 organization's board, and allow for the success or failure of the goals to be measured. A
10.11 procedure must be included to evaluate progress for each goal defined in this part at a
10.12 minimum of every two years according to part 8410.0150, subpart 3, item E.

10.13 Subp. 2. **Water quantity.** Water quantity goals must be established to address
10.14 priority issues, at a minimum, considering volume, peak rate, base flow, and
10.15 ~~imperviousness, or similar issues.~~ The goals must recognize current trend direction and
10.16 the fundamental relationship between water quantity and land use.

10.17 Subp. 3. **Water quality.** Water quality goals must be established to address priority
10.18 issues considering the uses of the water resource. The goals must recognize current trend
10.19 direction and the fundamental relationship between water quality and land use. If water
10.20 quality goals in the plan are less stringent than state water quality standards, the plan
10.21 must acknowledge this.

10.22 Subp. 4. [See repealer.]

10.23 Subp. 5. [See repealer.]

10.24 Subp. 6. **Public drainage systems.** Public drainage system management goals
10.25 must be established. The goals must define the organization's relationship to the drainage
10.26 authority. The plan may recommend whether or not there are advantages to managing the

11.1 drainage systems under the Metropolitan Water Management Act or through transferring
11.2 the drainage authority according to Minnesota Statutes, section 103E.812, and may
11.3 determine whether drainage maintenance activities have the potential of adversely
11.4 impacting any goal of the organization. The plan must generally describe the effect of the
11.5 plan on existing drainage systems.

11.6 Subp. 7. **Groundwater.** Goals must be established to address groundwater-surface
11.7 water interactions defined in approved and adopted county groundwater plans that are in
11.8 effect. Organizations ~~are encouraged to~~ shall establish goals to address groundwater issues
11.9 identified within the area of the organization in the Twin Cities Metropolitan Area Master
11.10 Water Supply Plan, or the Metropolitan Council's subsequent equivalent, and source water
11.11 protection plans, and local water supply plans. Additional goals may be established as
11.12 determined by the organization.

11.13 Subp. 8. **Wetlands.** Goals must be established for wetland management. The goals
11.14 must recognize the fundamental relationship between wetland management and land use.

11.15 Subp. 9. [See repealer.]

11.16 **8410.0105 IMPLEMENTATION ACTIONS.**

11.17 Subpart 1. **Requirements.** Each plan shall contain prioritized implementation
11.18 actions through the year the plan extends to that consists of administrative processes and
11.19 programs to address the goals defined under part 8410.0080 and that is consistent with the
11.20 principles of part 8410.0045, subpart 1, item A. The programs described in subparts 2
11.21 to 6 must be included in each plan unless the plan sufficiently justifies that a program or
11.22 program element is not needed. Each plan shall include a procedure to evaluate progress
11.23 for the implementation actions at a minimum of every two years according to part
11.24 8410.0150, subpart 3, item E. Each plan shall:

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

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

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

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

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

12.21 Subp. 3. **Operation and maintenance programs.** The plan must define who is
12.22 responsible for inspection, operation, and maintenance of storm water infrastructure,
12.23 public works, facilities, and natural and artificial watercourses and specify any new
12.24 programs or revisions to existing programs needed to accomplish the goals defined under
12.25 part 8410.0080.

13.1 Subp. 4. **Information and education program.** Each plan must provide for an
13.2 information and education program in consideration of the goals defined under part
13.3 8410.0080. The program must, at a minimum, include the purpose, targeted audiences,
13.4 and actions. An annual communication must be distributed to residents of the organization
13.5 in compliance with Minnesota Statutes, section 103B.227, subdivision 4.

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

13.15 Subp. 6. **Regulatory program.** Controls or performance standards must be
13.16 described in the plan, although an organization's rules in place at the time of plan approval
13.17 may be referenced instead. The plan must specifically describe how the organization's
13.18 controls will be implemented in coordination with local official controls. The plan must
13.19 clearly distinguish between the responsibilities of the organization and the affected
13.20 local government units relative to controls established according to this subpart. The
13.21 enforcement process for violations of controls of the organization must be defined.
13.22 Controls must take effect within two years of plan adoption by the organization. The plan
13.23 must include an assessment of existing controls within the organization's jurisdiction and
13.24 address any deficiencies or redundancies related to attaining the goals defined under part
13.25 8410.0080. If a plan notes the existence of certain land uses that could adversely affect the
13.26 organization's ability to achieve the goals defined under part 8410.0080, the organization

14.1 must provide written notification to that unit of government specifying the issue. The
14.2 following items must be considered in developing a regulatory program:

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

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

14.11 (1) erosion and sediment transport to receiving waters;

14.12 (2) nutrient loading and concentration; and

14.13 (3) maximum permissible runoff rates and volumes;

14.14 C. standards or controls to address flood impacts; and

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

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

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

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

15.4 B. An organization may take the lead on developing a total maximum daily load
15.5 (TMDL) or a TMDL implementation plan as a third party under Minnesota Statutes, section
15.6 114D.25, subdivision 5. The TMDL or TMDL implementation plan must be developed in
15.7 coordination with, and provided to, the Pollution Control Agency for review and approval.

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

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

15.14 E. An organization may possess other authorities in addition to those listed in
15.15 items A to D.

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

15.19 Subp. ~~10~~ 9. **Local water plans.**

15.20 A. An organization plan must specify to what degree the organization plan may
15.21 be adopted by reference by a local government unit for all or part of its local water plan.
15.22 Upon request of a local government unit, an organization must provide a list to the local
15.23 government unit and the plan review agencies of local water plan revisions necessary for
15.24 compliance with the organization plan. A local water plan may serve as a storm water
15.25 pollution prevention program if it is approved by the Pollution Control Agency and it

16.1 complies with the requirements of any applicable national pollutant discharge elimination
16.2 system/state disposal system storm water permit.

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

16.11 **8410.0140 PLAN AMENDMENTS.**

16.12 Subpart 1. **Amendment section.**

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

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

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

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

16.25 A. formatting or reorganization of the plan;

- 17.1 B. revision of a procedure meant to streamline administration of the plan;
- 17.2 C. clarification of existing plan goals or policies;
- 17.3 D. inclusion of additional data not requiring interpretation;
- 17.4 E. expansion of public process; or
- 17.5 F. adjustments to how an organization will carry out program activities within
- 17.6 its discretion.

17.7 Subp. 2. **Amendment procedure.** All amendments to a plan must adhere to the

17.8 review process provided in Minnesota Statutes, section 103B.231, subdivision 11, except

17.9 when the proposed amendments are determined to be minor amendments according to

17.10 the following provisions:

17.11 A. the board has either agreed that the amendments are minor or failed to act

17.12 within five working days of the end of the comment period specified in item B unless an

17.13 extension is mutually agreed to with the organization;

17.14 B. the organization has sent copies of the amendments to the plan review

17.15 authorities for review and comment allowing at least 30 days for receipt of comments, has

17.16 identified the minor amendment procedure is being followed, and directed that comments

17.17 be sent to the organization and the board;

17.18 C. no county board has filed an objection to the amendments with the

17.19 organization and the board within the comment period specified in item B unless an

17.20 extension is mutually agreed upon by the county and the organization;

17.21 D. the organization has held a public meeting to explain the amendments and

17.22 published a legal notice of the meeting twice, at least seven days and 14 days before the

17.23 date of the meeting; and

17.24 E. the amendments are not necessary to make the plan consistent with an

17.25 approved and adopted county groundwater plan.

18.1 Subp. 3. [See repealer.]

18.2 Subp. 4. **Form of amendments.** Draft and final amendments ~~must be bound paper~~
18.3 ~~pages unless~~ may be sent electronically. A receiving entity ~~agrees in advance~~ may request
18.4 to receive an amendment in ~~electronic~~ paper format. Draft amendments must show deleted
18.5 text as stricken and new text as underlined. Unless the entire document is ~~reprinted~~
18.6 redone, all final amendments adopted by the organization must be ~~printed~~ in the form of
18.7 replacement pages for the plan with each page renumbered as appropriate and each page
18.8 including the effective date of the amendment.

18.9 Subp. 5. **Distribution of amendments.** Each organization must maintain a
18.10 distribution list of agencies and individuals who have received a copy of the plan. An
18.11 organization shall distribute copies of amendments to all on the distribution list and post
18.12 the amendments on the organization's Web site within 30 days of adoption.

18.13 **8410.0150 ANNUAL REPORTING AND EVALUATION REQUIREMENTS.**

18.14 Subpart 1. **Requirement for annual activity and audit reports.**

18.15 A. An organization shall annually:

18.16 (1) within 120 days of the end of the calendar year submit to the board an
18.17 activity report for the previous calendar year; and

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

19.1 B. The reports may be combined into a single document.

19.2 Subp. 2. [See repealer.]

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

19.5 A. a list of the organization's board members, names of designated officers,
19.6 and the governmental organization that each board member represents for joint powers
19.7 organizations and the county that each member is appointed by for watershed districts;

19.8 B. identification of a contact person capable of answering questions about the
19.9 organization including a postal and electronic mailing address and telephone number;

19.10 C. an assessment of the previous year's annual work plan that indicates whether
19.11 the stated activities were completed including the expenditures of each activity with
19.12 respect to the approved budget unless included in the audit report;

19.13 D. a work plan and budget for the current year specifying which activities
19.14 will be undertaken;

19.15 E. at a minimum of every two years, an evaluation of progress on goals and
19.16 the implementation actions, including the capital improvement program, to determine if
19.17 amendments to the implementation actions are necessary according to part 8410.0140,
19.18 subpart 1, item C, using the procedures established in the goals and implementation
19.19 sections of the plan under parts 8410.0080, subpart 1, and 8410.0105, subpart 1;

19.20 F. a summary of significant trends of monitoring data required by part
19.21 8410.0105, subpart 5;

19.22 G. a copy of the annual communication required by part 8410.0105, subpart 4;

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

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

20.4 J. the status of any locally adopted ordinances or rules required by the
20.5 organization including their enforcement; and

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

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

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

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

20.23 B. The executive director shall determine whether there is a basis for a
20.24 complaint before reporting the complaint to the board. The executive director shall ensure
20.25 that the affected organization and the plan review agencies are notified of the complaint

21.1 and given an opportunity to respond to, or comment on, the allegations before determining
21.2 whether there is a basis for the complaint.

21.3 C. If the executive director determines there is a basis for the complaint, the
21.4 affected organization shall be given an opportunity to appear before the board's dispute
21.5 resolution committee established under Minnesota Statutes, section 103B.101, subdivision
21.6 10, and respond to the allegations in the complaint. The complainant shall also be given
21.7 an opportunity to be heard.

21.8 D. After providing an opportunity for the organization and the complainant to
21.9 be heard, the board shall decide whether to order a state financial or performance audit
21.10 of the organization. The cost of state financial and performance audits shall be paid for
21.11 by the organization.

21.12 **8410.0160 PLAN STRUCTURE.**

21.13 Subpart 1. **Requirement.** Each local water plan must, at a minimum, meet the
21.14 requirements for local water management plans in Minnesota Statutes, section 103B.235,
21.15 and this part, except as provided by the watershed management organization plan under
21.16 part 8410.0105, subpart 10.

21.17 Subp. 2. **Local comprehensive plan.** Each local government unit must include the
21.18 local water plan as a chapter of its local comprehensive plan. All local comprehensive
21.19 plans must be consistent with local water plans adopted under this part.

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

21.22 A. an executive summary that summarizes the highlights of the local water plan;

21.23 B. appropriate water resource management-related agreements that have
21.24 been entered into by the local community must be summarized, including joint powers
21.25 agreements related to water management that the local government unit may be party

22.1 to between itself and watershed management organizations, adjoining communities, or
22.2 private parties;

22.3 C. the existing and proposed physical environment and land use must be
22.4 described. Drainage areas and the volumes, rates, and paths of storm water runoff must be
22.5 defined. Data may be incorporated by reference as allowed under parts 8410.0060 and
22.6 8410.0105, subpart 10, or the local comprehensive plan;

22.7 D. an assessment of existing or potential water resource-related problems
22.8 must be summarized. The problem assessment must be completed for only those areas
22.9 within the corporate limits of the local government unit and similar to the process under
22.10 part 8410.0045, subpart 7; and

22.11 E. a local implementation program through the year the local water plan extends
22.12 must describe nonstructural, programmatic, and structural solutions to problems identified
22.13 in item D. The program must not jeopardize achievement of the goals of an organization's
22.14 plan. The implementation components must be prioritized consistent with the principles
22.15 of part 8410.0045, subpart 1, item A. Local water plans must prioritize the implementation
22.16 components of an organization plan consistent with the organization priorities set forth
22.17 under part 8410.0105 only for implementation components that must be facilitated by
22.18 the local government unit. Local official controls must be enacted within six months of
22.19 approval of the local water plan by the organization. The program shall:

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

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

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

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

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

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

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

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

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

24.1 **8410.0180 DETERMINATIONS OF FAILURE TO IMPLEMENT.**

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

24.3 Subp. 2. **Petition.** The board ~~may~~ shall establish just cause for determining whether
24.4 a plan is being properly implemented by review of a written petition. A petition may
24.5 be made by a plan review agency, board staff, a local government unit, or 50 residents
24.6 with land in the area that is subject to the petition. A petition must be made in writing
24.7 to the executive director of the board and must summarize the issues at dispute and the
24.8 efforts the party made to resolve the problem.

24.9 Subp. 3. **Petition review process.**

24.10 A. Within 30 days of receiving a written petition, board staff are required to send
24.11 a copy to the plan review ~~agencies~~ authorities and the organization and initiate a preliminary
24.12 assessment including a review of relevant documents, review of comments from the plan
24.13 review ~~agencies~~ authorities and the organization, and discussions with involved parties.
24.14 The results of the preliminary assessment shall be reviewed with the executive director and
24.15 a report prepared if the executive director determines just cause exists. Just cause may be
24.16 established if no annual report or audit has been submitted compliant with the requirements
24.17 in part 8410.0150, or if a plan has not been amended according to part 8410.0140, subpart
24.18 1, item C. Just cause may be established for other reasons according to subpart 3a. The
24.19 executive director of the board may combine multiple petitions involving the same
24.20 organization and process as one decision. If the executive director determines just cause
24.21 does not exist, the petitioner, the organization, and the plan review ~~agencies~~ authorities
24.22 shall be provided written notice of the decision. ~~The executive director may require more~~
24.23 ~~frequent reporting and thorough evaluation than required under part 8410.0150.~~

24.24 B. If just cause is established, board staff shall conduct further investigation and
24.25 prepare a report. The report shall conclude whether a failure to implement exists, define the
24.26 exact nature of the failure to implement, and recommend a course of action. The report shall

25.1 be sent to the petitioner, the organization, and the plan review agencies, ~~and affected local~~
25.2 ~~governments~~ authorities. Board staff shall provide written notification to all those to whom
25.3 it sent the report of the time and location of a meeting to discuss the contents of the report.

25.4 C. The organization is allowed 60 days after the meeting in item B to hold a
25.5 public hearing to develop a formal course of action and send a formal response by mail to
25.6 the board and known aggrieved parties.

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

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

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

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

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

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

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

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

26.6 H. whether the organization maintains a Web site that complies with part
26.7 8410.0150, subpart 3a; and

26.8 I. any other factors pertinent to the petition.

26.9 **Subp. 4. Determinations.**

26.10 A. On receipt of the information under subpart 3, items B and C, the board may:

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

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

26.15 (3) direct the organization to develop an amended plan ~~within a reasonable~~
26.16 ~~time period;~~

26.17 (4) set a time period for the submission of an amended plan that reflects the
26.18 complexity of the amendments;

26.19 ~~(4)~~ (5) direct staff or the dispute resolution committee to attempt to resolve
26.20 the matter and to advise the board further; or

26.21 ~~(5)~~ (6) issue findings of fact and conclusions of its investigation advising
26.22 the affected organizations, county, or counties of the documented failure to implement the
26.23 subject plan and advise the appropriate unit of government to complete its responsibility

27.1 under Minnesota Statutes, section 103B.231, subdivision 3, paragraph (b) or (c), within a
27.2 prescribed period of time.

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

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

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

27.11 A. No appeal may be made to the board for the board's dispute resolution
27.12 committee established under Minnesota Statutes, section 103B.101, subdivision 10, to
27.13 hear and resolve disputes concerning plan implementation until after the procedures in
27.14 subpart 4 have been completed or until after the executive director has made a decision
27.15 that just cause does not exist under subpart 3, item A.

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

27.25 C. After an appeal is granted, the appeal must be decided by the board within
27.26 60 days after ~~submittal of written briefs for the appeal and conclusion of a hearing the~~

28.1 close of the hearing record by the dispute resolution committee. Parties to the appeal
28.2 are the appellant and the organization. The board or its executive director may elect to
28.3 ~~combine~~ join multiple appeals involving the same organization and ~~process as actions into~~
28.4 one decision. ~~An appeal of a board decision may be taken to the state Court of Appeals~~
28.5 ~~and must be considered an appeal from a contested case decision for purposes of~~ A party
28.6 aggrieved by the board's final decision may seek judicial review under as provided in
28.7 Minnesota Statutes, sections 14.63 to 14.69.

28.8 Subp. 6. **Determination necessary for watershed district termination.** A
28.9 determination of failure to implement under subpart 4, item A, subitem (5), is necessary
28.10 before the board may terminate a watershed district under Minnesota Statutes, section
28.11 103B.221.

28.12 **REPEALER.** Minnesota Rules, parts 8410.0010, subpart 2; 8410.0020, subparts 4, 5, 10,
28.13 11, 12, 13, 19, and 24; 8410.0060, subparts 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11; 8410.0070;
28.14 8410.0080, subparts 4, 5, and 9; 8410.0090; 8410.0100; 8410.0110; 8410.0120;
28.15 8410.0130; 8410.0140, subpart 3; 8410.0150, subpart 2; and 8410.0170, are repealed.