



Highlights of Changes to Minnesota Rules, Chapter 8410

Metropolitan Local Water Management

December 1, 2015

An amendment of Minnesota Rules, Chapter 8410 became effective on July 13, 2015. The original rules went into effect on August 1, 1992. It is the first time the original rules have been amended. The rules relate to water management in the seven-county metropolitan area. The rules affect watershed management organizations (organizations), including watershed districts, and their watershed management plans (plan or plans). Also, the rules affect local water plans for all cities and towns in the seven-county metropolitan area.

Highlights of changes resulting from the rule amendment follow. Not all changes are included. *** Asterisks indicate significant items that will likely require action in the near future.

8410.0010. Scope.

- Ten-year plan amendments that will be approved on or before the June 22, 2016 BWSR Board meeting may proceed under either the existing rule or the amended rule.
- Ten-year plan amendments that are approved by the BWSR Board after the June 22, 2016 meeting must adhere to the procedures and requirements in the amended rule.

8410.0020, subp. 19a. Definitions.

- Ten-year plan amendment has been defined and is what has commonly been referred to as a plan revision, revised plan or plan update.
- Ten-year plan amendments may be done more than once every ten years, although most organizations do them about every ten years.

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8410.0030. Joint Powers Agreements.

- Requirements for joint powers agreements for watershed management organizations have been modified to allow a map based on parcels instead of a legal description to define the area of the organization.
- Note that no changes to existing joint powers agreements that are compliant with the original rules are required as a result of the rule amendment.

Watershed Management Organization Watershed Management Plans

8410.0045. Issue Identification and Assessment. Development of ten-year plan amendments must follow procedures that many organizations have already been following. The procedures include the following:

1. Request input at the beginning of the plan development process from state agencies, counties, cities, townships, soil and water conservation districts, and stakeholders.
2. Hold an initial planning meeting after providing widespread notification.
3. Coordinate planning activities with contiguous watershed management organizations, and with counties and cities having area within an organization.
4. Assess all issues.
5. Consider success of implementing the previous plan.
6. Identify priority issues to be the focus of the ten-year plan amendment.

8410.0060. Land and Water Resources.

- The land and water resources section of a plan can incorporate information by reference into the plan.
- This should reduce the size or volume of a plan and the cost of developing a plan.

Establishment of Goals**8410.0070, subp. 1. Requirements.**

- Plans must contain a procedure to evaluate progress on attaining goals.
- Results of the evaluation must be in an organization's annual report at a minimum of every two years.

8410.0070, subp. 7. Groundwater.

- New requirements for groundwater goals include addressing issues identified in the Twin Cities Metropolitan Area Master Water Supply Plan and source water protection plans for areas within an organization's boundaries.

Implementation Actions**8410.0105, subp. 1. Requirements.**

- Plans must contain a procedure to evaluate progress on implementation of the plan.
- Results of the evaluation must be in an organization's annual report at a minimum of every two years.
- Tables summarizing the implementation actions are required. Most plans have contained the tables during the past 10 to 15 years.
- A plan must clearly define who the responsible entity is for the implementation actions.

***** 8410.0105, subp. 5. Data collection programs.**

- Organizations must annually submit their quality-controlled and quality- assured monitoring data to the appropriate state agency.

8410.0105, subp. 6. Regulatory program.

- An organization's regulatory program described in a plan must be coordinated with local official controls and address any deficiencies or redundancies related to attaining the goals in the plan.
- The plan must clearly distinguish between the responsibilities of the organization and the affected local government units.
- The enforcement process for violations of controls of an organization must be defined in the plan.

8410.0105, subp. 7. Incentive programs.

- Plans may contain incentive programs, such as cost share or grant programs.

8410.0105, subp. 8. Waters restoration and protection programs.

- Plans may implement restoration and protection programs for waters that are impaired or need to be protected.
- Organizations may take the lead on developing a total maximum daily load (TMDL) or a TMDL implementation program if approved by the PCA.

- Organizations may take the lead on developing a watershed restoration and protection strategy (WRAPS) under an agreement with the PCA.

***** 8410.0105, subp. 9 and 8410.0160, subp. 6. Local Water Plans.**

- There is a significant change in the timing of local water plan revisions.
- Local water plans must be prepared by metropolitan cities and towns (municipalities) and a local water plan must become part of the local comprehensive plan for a municipality.
- Under the amended rule, local water plans must be revised essentially once every ten years in alignment with the local comprehensive plan schedule.
- A municipality has two years before their local comprehensive plan is due to adopt their local water plan.
- Prior to adoption, a municipality must prepare their local water plan, distribute it for comment, and have it approved by the organization with jurisdiction in the municipality.
- The next local comprehensive plans are due December 31, 2018, thus **all cities and towns in the seven-county metropolitan area must complete and adopt their local water plan between January 1, 2017 and December 31, 2018.** Thereafter add ten years to each of the previous dates.
- Local water plans may be updated more frequently by a municipality at its discretion.

Plan Amendments

8410.0140. Plan Amendments.

- The amended rule specifies several changes to a plan that do not require an amendment of the plan.
- The minor amendment procedure has been broadened so regular amendments will be needed less frequently.
- Electronic distribution of plan documents is allowed.

Annual Reporting and Evaluation Requirements

***** 8410.0150, subp. 1. Requirement for annual activity and audit reports.**

- The annual report due date is aligned with the end of the calendar year instead of the fiscal year.

- Annual reports are due April 30th each year. The change affects two organizations with fiscal years ending January 31.
- The annual audit due date is extended to 180 days after the end of the fiscal year.
- Audits of qualifying low budget organizations are now required only once every five years instead of every year. See Minn. Stat. §§ 6.756 and 412.591, subd. 3 for threshold total annual revenue amounts and procedures. There are still annual requirements for a financial statement and for the annual report to include expenditures in relation to the approved budget. For 2014 the threshold amount is \$204,000 according to the State Auditor.

***** 8410.0150, subp. 3.E. Evaluation every two years.**

- At least once every two years an evaluation of the progress on attaining the goals and carrying out implementation actions, and a determination if a plan amendment is necessary, must be included in the annual report.
- Procedures established under 8410.0080, subp. 1 and 8410.0105, subp. 1 must be used for the evaluation once an organization has a plan that includes the procedures.
- In the interim until an organization has a plan that includes the evaluation procedures, an organization must use a process suitable to complete the evaluation. Organizations have more than six months to develop their interim process. **Unless done sooner, the first evaluation must be in the annual report for 2017, due by April 30, 2018, for the evaluation of a minimum of years 2016 and 2017.**

8410.0150, subp. 3.F. Monitoring data.

- Annual reports must include a summary for the trends of monitoring data instead of the raw data.

***** 8410.0150, subp. 3a. Watershed management organization Web sites.**

- Web sites are required for each organization.
- There are items required to be on the web site that many web sites currently lack.
- Web sites must be kept current on a monthly basis or more frequently.
- **Web sites must be compliant with the amended rules by March 1, 2016.** Organizations have time to budget funds for next year to meet this requirement.

Local Water Plans

8410.0160. Plan structure.

- The local water plan that all metropolitan cities and towns are required to have must be part of the local comprehensive plan.
- Data may be incorporated by reference instead of including it in the local water plan.
- No longer required in a local water plan is an outline of the purposes of all the water management programs contained in the Metropolitan Surface Water Management Act, an analysis of the financial impact to implement the local water plan, goals and policies, however they may be included.

***** 8410.0160, subp. 6. Adoption and implementation.**

- Reference 8410.0105, subp. 9 on page 4.

For further information, contact the Board Conservationist serving your area, found at http://bwsr.state.mn.us/maps/Website/Administrative%20Boundaries/BWSR%20Administrative/BC_areas.pdf or Jim Haertel at 651-297-2906, jim.haertel@state.mn.us.