

Amendment and Extension Guide for Counties and 103D Watershed Districts

Purpose

This document provides guidance on the requirements and procedures for amending and/or extending a County Comprehensive Local Water Plan (County Water Plan) or a Watershed Management Plan (103D Watershed District Plan). This guidance is based on BWSR's [Local Water Plan Extension and Amendment Policy \(June 2016\)](#). The primary goals of this policy are to: 1) facilitate the transition to One Watershed, One Plan by ensuring active participation by counties, soil and water conservation districts, and watershed districts in plan development; 2) allow for effective participation and use of the Minnesota Pollution Control Agency's Watershed Restoration and Protection Strategies (WRAPS); and 3) maintain eligibility of participating local government units in applying for and receiving grants under the BWSR's current and future grants policies. Counties and watershed districts can consider pursuing plan amendments, waivers and/or extensions in order to maintain an approved water plan.

Amendments alter a plan by modification, deletion, or addition using the process described in statute. Waivers (of a required amendment) allow for the amendment requirement to be disregarded. Extensions lengthen the plan end date. Each option is described in detail below.

Amendments

Common reasons a county or watershed district (WD) may initiate an amendment are because new information or issues arise that need to be incorporated into the plan, or a BWSR order approving the original plan requires an update of the goals, objectives and action items, often called a five year amendment or five year focus plan. When the amendment is being pursued to address requirements in the BWSR order approving the original plan, the amendment will include an update of the action items, and the goals and objectives if necessary. The amendment will also include a revision to the executive summary, as appropriate. An amendment to the implementation section of the plan may also be required by BWSR in conjunction with a request for an extension of the plan.

The amendment process consists of required and recommended steps for amending water plans, as per [Minnesota Statute §103B.314, Subd. 6 \(county\)](#); [Minnesota Statute §103D.411 \(watershed district\)](#). The required steps are indicated with an asterisk (*).

Step 1. Consult

County/WD consults with the BWSR Board Conservationist to review the water plan amendment process. Determine the extent of the amendment and review process and the correlated level of effort needed. Extensive

amendments typically take 18 months to complete. Set a due date for amendment completion and work backward to develop an internal timeline.

Discuss the participants who will be involved with the amendment review and the level of involvement, which depends on the nature of the amendment.

County: Suggested participants are local government units that are within the plan(s) jurisdiction (examples: soil and water conservation districts, municipalities, towns and townships, watershed districts, boards of contiguous counties, joint powers organizations), the state review agencies (BWSR, DNR, MPCA, MDA, MDH) ([Minnesota Statutes §103B.314, Subd. 6](#)), and federal government agencies. This stakeholder group is commonly called the "County's Water Plan Task Force" or "Water Plan Advisory Committee," see BWSR's [County Water Plan Update Guide](#) for more information on Task Forces.

Watershed District: Suggested participants are counties affected by the proposed amendment, the commissioner, the director, the manager/administrator and council president of each municipality affected by the watershed district, and the soil and water conservation districts affected by the watershed district ([Minnesota Statutes §103D.405, Subd. 5](#)), and federal government agencies. WD's are required to have an advisory committee; this committee could also provide input into the amendment content.

Stakeholders are not required to be notified or consulted regarding the amendment until Step 4. However, it may be beneficial for the County/WD to obtain feedback from stakeholders throughout the process in order to avoid issues arising in the review process. Example scenario: If the amendment will include new information from a recently completed WRAPS process, and most or all of the stakeholders were involved in that process, then it makes sense to wait to consult with the stakeholders until Step 4.

Step 2. Self-Assessment and Develop Proposed Amendment*

County/WD performs self-assessment to evaluate progress on current plan. This should include a review of Performance Review and Assistance Program (PRAP) reports and other related information.

County/WD reviews current plan sections and develops a list of sections to amend, noting areas where information is missing, or out of date. Review state reports/plans for your area, such as Groundwater Restoration and Protection Strategies (GRAPS) and Watershed Restoration and Protections Strategies (WRAPS), for possible inclusion into the plan. The BWSR website contains information on [how to use the Watershed Restoration and Protection Strategies \(WRAPS\) reports](#) in water plans.

County/WD develops proposed amendment with or without stakeholder input as determined in Step 1. When submitting copies of the proposed amendment, the copies should show deleted text as stricken and new text as underlined; or the submittal should be clearly replacement pages (e.g. a new Executive Summary to replace the previous Executive Summary). Unless the entire document is reprinted, all approved amendments should be printed in the form of replacement pages for the plan with each page renumbered as appropriate including the effective date of the amendment. Proposed amendments may be submitted electronically. Final BWSR-approved amendments posted to websites should be clean copies (track changes accepted). The proposed

amendment must accompany the petition to amend the plan sent to the BWSR [Minnesota Statute §103B.314, Subd. 6 \(county\)](#); [Minnesota Statute §103D.411 \(watershed district\)](#).

Step 3. Submit Petition*

County/WD submits a petition to the BWSR. ([Minnesota Statutes §103B.314, Subd. 6 \(county\)](#); [Minnesota Statutes §103D.411 \(watershed district\)](#)). The petition to amend the water plan can be in the form of a letter or memo to the BWSR Board Conservationist. The petition may be submitted electronically. The petition should contain:

- background on the water plan;
- the purpose(s) for the amendment; and
- a general summary of the amendment (areas of the plan that will be amended, scope of the amendment if known).

The petition should include the following attachments:

- a copy of the signed resolution passed by the County/WD board indicating the intent to amend the water plan. The “Resolution to Amend” template is located on the [BWSR website](#); and
- the proposed amendment and the date of the public hearing.

BWSR Board Conservationist consults with the BWSR Regional Manager, other BWSR staff and board members and provides feedback to the County/WD regarding the petition and proposed amendment.

Step 4. Notify*

County: County notifies plan stakeholders and requests input on the proposed amendment. The notice must include copies of the proposed amendment and the date, time and place of the public hearing. It is suggested to allow 60 days for response for extensive amendments without prior review. After the comment period closes, compile all of the comments prior to the public hearing ([Minnesota Statutes §103B.314, Subd. 6](#)).

Watershed District: BWSR provides notice by publication in a legal newspaper published in counties affected by the watershed district and by mail to the auditors of counties and to the chief executive officials of municipalities affected by the watershed district ([Minnesota Statutes 2017 §103D.405, subd. 5](#).)

Step 5. Public Hearing*

County: County conducts a public hearing on the proposed amendment ([Minnesota Statutes §103B.315, Subd. 4](#)). The public hearing must be legally noticed at least ten days before the date of the hearing.

Watershed District: BWSR conducts a public hearing on the proposed amendment ([Minnesota Statutes §103D.405, Subd. 5](#)). The public hearing meeting must be legally noticed at least ten days before the date of the hearing.

Step 6. Reconvene Task Force

County/WD may reconvene the Water Plan Task Force/Advisory Committee as needed to consider and address comments.

Step 7. Revise Amendment

County/WD revises proposed amendment after formal review and Water Plan Task Force meeting(s) and prepares for final submission to BWSR.

Step 8. Submit Amendment*

County/WD submits final proposed amendment to BWSR to complete final formal review.

County: Submit a copy of the final proposed amendment, a record of the public hearing, all written comments received on the plan, a list of the entities that received the proposed amendment and notice of public hearing, and a summary of the changes incorporated as a result of the review process to the BWSR Board Conservationist ([Minnesota Statutes §103B.315, Subd. 5 \(a\)](#)).

Watershed District: Submit final proposed amendment and a summary of the changes incorporated as a result of the review process to the BWSR Board Conservationist.

The BWSR Board Conservationist will submit the final proposed amendment to:

- The BWSR regional committee for recommendation, and to the BWSR Board for a decision via a board order. Processed within 90 days (traditional amendment approval process); or
- The Regional Manager with final approval from the Executive Director via a Board Order. Processed within 60 days (non-traditional amendment approval process), see [Local Water Plan Extension and Amendment Policy \(June 2016\)](#).

Step 9. Notice of Action*

BWSR sends County/WD official notice of BWSR Board action on the final amendment. BWSR sends the order and the approved amendment to the entities that received the amendment and notice of the public hearing ([Minnesota Statutes §103B.314, Subd. 6 \(county\)](#); [Minnesota Statutes §103D.411 \(watershed district\)](#)).

Step 10. County/WD Pass Resolution to Adopt

County/WD board passes a resolution acknowledging the approved amendment after receiving notice and provides a copy to the Board Conservationist within 120 days of BWSR approval. The template to “Resolution to Adopt Amendment” is located on the [BWSR website](#).

Amendment Waivers (counties only)

Any county with a BWSR Board Order to amend their plan may request a waiver. See the [Local Water Plan Extension and Amendment Policy \(June 2016\)](#) for more information. The steps to request a waiver are below.

1. County consults with the BWSR Board Conservationist regarding the proposed waiver request.
2. County submits a petition to the BWSR Board Conservationist communicating their intent to request a waiver of the amendment requirement for their water plan. The petition to waive the amendment requirement for the water plan may be in the form of a letter or memo to the BWSR Board Conservationist. The petition may be submitted electronically. The petition should contain:
 - a. background on the water plan,
 - b. the purpose(s) for the waiver petition, and
 - c. a copy of the signed County resolution. The “Resolution to Waive Amendment Requirement” template is located on the [BWSR website](#).
3. BWSR staff submits the waiver petition to the BWSR Executive Director for a decision via a Board Order.
4. BWSR sends County official notice of BWSR Board decision on the waiver petition.

Extensions

Extensions may be requested for participation in and use of information from a WRAPS and/or One Watershed, One Plan process. All requests for extensions to a water plan must be initiated by petition to BWSR. The extensions may be granted as requested, or BWSR may condition the extension approval with a requirement for a subsequent amendment to address new data and information that may substantially change implementation of the water plan. The petition may be submitted electronically. The steps to request an extension are below.

1. County/WD consults with the BWSR Board Conservationist regarding the proposed extension.
2. County/WD submits a petition to the BWSR Board Conservationist communicating their request for an extension to their water plan. The petition to extend the water plan may be in the form of a letter or memo to the BWSR Board Conservationist. The petition should contain:
 - a. background on the water plan,
 - b. the purpose(s) for the extension petition, and
 - c. a copy of the signed resolution attached to the extension petition. The “Resolution to Extend” template is located on the [BWSR website](#).
3. BWSR Board Conservationist consults with the BWSR Regional Manager, other BWSR staff and board members. BWSR Board Conservationist will submit the extension petition to:
 - The BWSR regional committee for recommendation, and to the BWSR Board for a decision via a Board Order. Processed within 90 days (traditional amendment approval process); or
 - The Regional Manager with final approval from the Executive Director via a Board Order. Processed within 60 days (non-traditional amendment approval process), see [Local Water Plan Extension and Amendment Policy \(June 2016\)](#).
4. BWSR sends County/WD official notice of BWSR Board decision on the extension petition.