



**Date:** March 27, 2020

**To:** Local Government Boards/Councils and Staff

**From:** John Jaschke, MN BWSR Executive Director

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**Re:** BWSR COVID-19 Preparedness and Operations Update

We are thinking of all of you and your team as you deal with COVID-19. We are in uncertain times with the unprecedented situation and challenges COVID-19 has presented us. This update – and likely future ones – is intended to explain how BWSR is managing our work as well as provide some broad information on questions that have been brought to our attention.

## BWSR Operations

On March 25, 2020, Governor Walz announced a Stay-at-Home [Emergency Executive Order 20-20](#) (EEO20-20) effective March 27, 2020 to April 10, 2020. BWSR, along with other State agencies, has broadly implemented telework measures for our staff who will now be working from their homes full-time. While our buildings may be empty, BWSR is open and our [staff are available by e-mail and phone](#). We will continue to process grant agreements and payment requests as quickly as we can. We are accepting easement applications, responses to RFPs, etc. and continuing engagement in plan and project development work. Field work and construction oversight work is being readied but may be curtailed temporarily unless full social distancing measures are possible. During this Stay-at-Home period BWSR staff will also be available to participate in meetings by conference call and/or Skype or other remote meeting tools and may be able to assist with arranging use of these systems if our participation is required.

## Critical/Essential Work

The primary purpose of EEO20-20 is to further minimize -- for the upcoming two weeks -- human interactions in order to thwart COVID-19 virus transmission. The *critical/essential* designation in the Order is applicable to certain work and workers rather than types of organizations. Therefore, it will be incumbent on each office to assess that uniquely for themselves with a reminder that telework, time-off/leave, and reassignment are among the management options available.

The order contains the following language with regard to local government authority to decide which work is *critical/essential*: **“Workers performing all other governmental functions which are necessary to ensure the health, safety, and welfare of the public, to preserve the essential elements of the financial system of government, and to continue priority services as determined by a political subdivision of the state. All political subdivisions of the state will determine the minimum personnel necessary to maintain these governmental operations.”**

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As political subdivisions of the State, local governments will need to assess and document identification of critical/essential work as defined in EEO20-20 or any subsequent directives from the Governor. The EEO20-20 states that **all workers who can work from home must do so**. In order to be exempt from the Order all of the following criteria must be met: 1. The work must be identified as within the critical sectors; 2. The work cannot be done from home via telework; and 3. The work can only be done at a place of work outside of the home.

Though it is not meant to provide immediate or definitive answers, the State has established an email address to submit specific questions about where work is *critical/essential*: [criticalsectors@state.mn.us](mailto:criticalsectors@state.mn.us).

Note for SWCDs only: Our partners at USDA NRCS and FSA have undergone a similar but separate federally directed process for these determinations. Whether or how USDA staff accomplish their work may inform, but not direct, SWCD decisions.

## Open Meeting Law

Even in times of emergency, the Open Meeting Law still applies to any meeting with a quorum. However, boards/councils may hold meetings over the telephone (or by other electronic means) so long as the presiding officer, chief legal counsel, or chief administrative officer determines that it is not practical or prudent to hold the meeting in person because of a health pandemic or when the governor has declared an emergency. This meeting will still need to be open and accessible. Both the board/council members and the public must be able to hear any discussion, testimony, or votes. Voting must be done by roll call so that all votes can be identified and recorded. Notice must still be provided, and additionally, the board/council must also give notice that 1) some members may participate by telephone, and 2) that the public may monitor the meeting by telephone.

Traditionally, meeting via telephone would still require a member of the board/council, the chief legal counsel, or the chief administrative officer to be present at the regular meeting location. However, if the governor has declared an emergency, or if it is not feasible to be physically present due to a health pandemic, the entire meeting can be held via telephone or other electronic means.

Information about board/council meetings by telephone under emergency circumstances is found in Minnesota Statutes [13D.021](#). Details about notice requirements are found in Minnesota Statutes [13D.04](#). If you have questions on the Open Meeting Law, contact your organization's legal counsel for guidance.

## Upcoming Meetings, Events, & Programs

We are currently compiling a list of BWSR-related upcoming meetings, events and programs. We will be assessing the list of upcoming events and making decisions on which gatherings will be postponed or cancelled, and which meetings/events can be conducted using remote work technology. We will be communicating the results of these decisions to those directly affected and/or via the BWSR website.

## Grants

We know there are numerous questions about how grants may be impacted by COVID-19. BWSR staff will be working with the State Office of Grants Management and we will provide updates on potential grant-related reporting or appropriation changes. Meanwhile, please continue to work on BWSR-

funded work plans, landowner contacts, designs, and other activities you can do from home consistent with the EEO20-20. As noted above, BWSR staff are working and will continue to review and approve work plans and grant agreements. Please let your Board Conservationist know if you have any questions or are experiencing any problems.

## Easements

Easements, work orders and payment processing are continuing during the COVID-19 emergency. CREP applications for the current batching period are being accepted through March 30, 2020 with another batching period upcoming running from April 13 to May 11. Applications for the Wellhead Protection Partners Grant Program are being accepted through March 31, 2020. For questions regarding the Wellhead Protection Partners Grants Program please contact Tabor Hoek at [tabor.hoek@state.mn.us](mailto:tabor.hoek@state.mn.us) or 507-537-7260. For questions relating to all other easement matters contact Sharon Doucette at [sharon.doucette@state.mn.us](mailto:sharon.doucette@state.mn.us) or 651-539-2567.

## Wetland Conservation Act

BWSR wetland staff will continue to provide assistance with Wetland Conservation Act (WCA) program implementation to the extent possible given that we are restricted from traveling and must work remotely. At the time of this message, the decision timelines associated with Minnesota Statutes [15.99](#) still apply to all WCA applications. We will notify you promptly if these timelines are modified by the legislature or emergency declaration. Otherwise, you can continue to reach out to your BWSR Wetland Specialist for assistance relating to WCA implementation.

## BWSR Executive Director Delegation Authority

On March 25, 2020, the BWSR Board approved a Board Order temporarily delegating authority to the Executive Director for the purposes of conducting agency business during the COVID-19 peacetime state of emergency. The Board Order delegates to the Executive Director all decisions necessary when timely Board meetings are not practical or possible and authorizes the Executive Director, for purposes of implementing agency business, to approve and sign all documents that would otherwise require Board action. The Board Order is effective beginning March 25, 2020 for a period of time until the State of Minnesota is no longer operating in a state of emergency or as otherwise directed by the Governor, enacted legislation, or subsequent Board Order.

We wish you all the best as we work together to adapt and adjust to the new normal COVID-19 has presented us. Please contact us with any questions or concerns you may have and if you have questions on specific applications of EEO20-20 to your work please contact your organization's counsel for guidance. Be well.