

1 Waste Management Board

2

3 Adopted Rules Governing the Establishment, Alteration, and
4 Termination of Solid Waste Management Districts

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6 Rules as Adopted

7 6 MCAR S 8.101 Establishment, termination and alteration of
8 solid waste management districts. Rules 6 MCAR SS 8.101-8.107
9 provide for the establishment, termination, and alteration of
10 solid waste management districts as required by Minn. Stat. S
11 115A.63, subd. 2. They govern the process by which local
12 petitions to establish, alter or terminate the boundaries,
13 powers, or responsibilities of solid waste management districts
14 are submitted to the Waste Management Board, and the process by
15 which the Waste Management Board will review the petitions.

16 6 MCAR S 8.102 Definitions. For the purposes of 6 MCAR SS
17 8.101-8.107, the following terms have the meaning given them,
18 unless the context requires otherwise.

19 A. Miscellaneous terms. The following terms have the
20 meaning given them in Minn. Stat. S 115A.03: agency, board,
21 collection, disposal, disposal facility, metropolitan area,
22 metropolitan council, person, processing, regional development
23 commission, resource recovery, resource recovery facility, solid
24 waste, solid waste management district or waste district,
25 transfer station, waste facility, and waste management.

26 B. Alteration. "Alteration" means a change in the
27 geographic boundaries or the articles of incorporation of a
28 solid waste management district.

29 C. Chairperson. "Chairperson" means the chairperson of the
30 Waste Management Board.

31 D. Director. "Director" means the Director of the Minnesota
32 Pollution Control Agency.

33 E. Metropolitan county. "Metropolitan county" means the
34 following counties: Anoka, Carver, Dakota, Hennepin, Ramsey,
35 Scott, and Washington.

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1 F. Nonmetropolitan county. "Nonmetropolitan county" means
2 those counties within Minnesota which are not metropolitan
3 counties.

4 G. Solid Waste Management Advisory Council. "Solid Waste
5 Management Advisory Council" means the council established
6 pursuant to Minn. Stat. S 115A.12, subd. 1.

7 H. Technical Advisory Council. "Technical Advisory Council"
8 means the council established pursuant to Minn. Stat. S 115A.12,
9 subd. 2.

10 6 MCAR S 8.103 Petition requirements and procedures for
11 establishment or alteration of a district.

12 A. Petition contents. A petition requesting establishment
13 or alteration of a solid waste management district shall contain
14 the following:

15 1. The name of the proposed solid waste management
16 district;

17 2. A physical description of the geographic area and a
18 brief description of the social and economic characteristics of
19 the political subdivisions within the proposed boundaries of the
20 district or alteration to a district;

21 3. A map which is of a sufficient scale to accurately
22 identify the proposed boundaries of the district, including the
23 political subdivisions contained within the proposed district;

24 4. A resolution of support for the district's
25 establishment or alteration from each petitioning county which
26 endorses the proposed boundaries and articles of incorporation
27 or the changes in the boundaries or articles of incorporation;

28 5. A statement of the purposes for establishing or
29 altering a district which describes in specific terms the solid
30 waste management problems of the area encompassed by the
31 district;

32 6. A statement of the goals and objectives of the
33 proposed new or altered district and a discussion of how
34 achieving the goals and objectives will lead to resolving the
35 solid waste problems within the district;

36 7. A description of the solid waste management

1 improvements and facilities which are envisioned, together with
2 a discussion of the impact that the improvements and facilities
3 will have on the solid waste management problems identified by
4 the petitioners, and on the existing solid waste management
5 system;

6 8. The proposed articles of incorporation or proposed
7 changes in the articles of incorporation signed by the
8 chairperson of all petitioning county boards specifying which of
9 the powers identified in Minn. Stat. SS 115A.69 and 115A.71 the
10 petitioners believe the district should exercise and any other
11 powers which the petitioners believe are necessary or convenient
12 to accomplishing the purposes, goals, and objectives of the
13 district, together with a statement of why each proposed power
14 is necessary or convenient to accomplishing the purposes, goals,
15 and objectives of the district;

16 9. A resolution signed by the chairperson of the county
17 board of each petitioning county which identifies the reasons
18 why joint powers agreements under Minn. Stat. S 471.59 are not
19 sufficient to provide the legal, planning, management, or
20 administrative structures necessary to implement the solid waste
21 management powers identified in the district's articles of
22 incorporation;

23 10. An affidavit executed by the chairperson of the
24 county board of each petitioning county which indicates that the
25 local review and comment provisions of B. and Minn. Stat. S
26 115A.64, subd. 3, have been complied with;

27 11. A copy of the comprehensive solid waste management
28 plan required by Minn. Stat. S 115A.63, subd. 3; and

29 12. A statement setting out the relationship between the
30 district and all affected counties with respect to solid waste
31 management planning, administration and enforcement functions.

32 B. Additional local review requirements.

33 1. The notice of the petition published in newspapers of
34 general circulation in the district as required by Minn. Stat. S
35 115A.64, subd. 3 shall include a summary of purposes, goals,
36 objectives and proposed powers of the district. The notice

1 shall state that comments on the petition may be submitted and
2 provide the name and address of a person to whom comments may be
3 submitted. The notice shall be published at least 60 days but
4 no more than 120 days before the petition is submitted to the
5 board.

6 2. The petitioners shall submit a copy of the petition to
7 the Metropolitan Council for review and comment, if the petition
8 involves a district which includes or extends into a
9 metropolitan county.

10 C. Petition review procedures.

11 1. The board shall accept a petition for review if it
12 conforms to the requirements of A. and Minn. Stat. SS
13 115A.62-115A.72.

14 2. Petitions involving a district which includes or
15 extends into a metropolitan county shall, upon acceptance, be
16 referred to the Metropolitan Council for review. If the
17 Metropolitan Council does not approve the establishment or
18 alteration of the district, the board shall dismiss the
19 petition. The Metropolitan Council shall make its decision
20 within 90 days after receiving the petition from the board.

21 3. If comments have been received by the chairperson
22 objecting to the establishment or alteration of the district,
23 the chairperson shall request the Office of Administrative
24 Hearings to conduct a public hearing on the petition. The
25 hearing shall be held within 60 days after the board has
26 accepted the petition.

27 4. Upon acceptance of a petition, the board shall
28 transmit copies of the petition to the board's Solid Waste
29 Management Advisory Council and Technical Advisory Council, and
30 the Director of the Pollution Control Agency for their advice
31 and recommendations concerning the disposition of the petition.

32 5. The Solid Waste Management Advisory Council shall make
33 its recommendations to the board within 60 days after receipt of
34 the petition. The Technical Advisory Council shall make its
35 recommendations to the board within 30 days after receiving the
36 petition.

1 6. The Director of the Pollution Control Agency shall
2 complete and submit to the board the report required by Minn.
3 Stat. S 115A.64, subd. 4, within 30 days after receiving the
4 petition. In addition to the issues which the report must
5 address under Minn. Stat. S 115A.64, subd. 4, the report shall
6 comment on whether the proposed articles of incorporation of the
7 district provide the district with adequate solid waste
8 management administrative, planning, and enforcement authority
9 to properly and safely carry out the solid waste management
10 programs which the district proposes to undertake.

11 D. Waste Management Board decision.

12 1. Within 60 days after receiving the recommendations
13 from the Solid Waste Management Advisory Council, or, in the
14 instance of a contested case proceeding, within 60 days after
15 receiving the report from the hearing examiner, the board shall
16 make its decision on whether establishment or alteration of the
17 district is in the public interest and serves the purposes of
18 Minn. Stat. SS 115A.62-115A.72. In making this decision the
19 board shall consider:

20 a. Whether the district will reduce the need for
21 landfilling of solid waste or improve the operation of solid
22 waste landfills;

23 b. Whether the district will provide coordinated solid
24 waste management by all or portions of two or more counties;

25 c. Whether the establishment or alteration of a
26 district will enhance the protection or preservation of natural
27 resources of the state;

28 d. Whether the district will increase the potential
29 for resource recovery;

30 e. Whether the delivery of solid waste management
31 services, public or private, will be more efficient, or more
32 convenient; and

33 f. Whether the articles of incorporation of the
34 district provide the district with adequate solid waste
35 management planning, administrative, and enforcement authority
36 to properly and safely carry out the solid waste management

1 programs which the district proposes to undertake.

2 2. If the board determines that the establishment or
3 alteration of a district as proposed in the petition would not
4 be in the public interest and would not serve the purposes of
5 Minn. Stat. SS 115A.62-115A.72, the board shall notify the
6 petitioners by certified mail of its intent to deny the
7 petition. If a contested case hearing has not been held on the
8 petition, and if the petitioners request a contested case
9 hearing within 30 days after the board issues its notice of
10 intent to deny the petition, the board shall request the Office
11 of Administrative Hearings to conduct a hearing. The hearing
12 shall be held within 60 days after the board receives the
13 request for a hearing. The board shall make its final decision
14 on the petition within 60 days after receiving the hearing
15 examiner's report. In addition to the notification requirements
16 of Minn. Stat. S 115A.64, subd. 4, the board shall also notify
17 the Minnesota Pollution Control Agency of its decision.

18 6 MCAR S 8.104 Petition requirements and procedures for
19 termination of a district.

20 A. Petition contents. A petition to terminate a district
21 shall include:

22 1. A statement identifying why the district is no longer
23 in the public interest, addressing at least the issues specified
24 in 6 MCAR S 8.103 D.1.;

25 2. A statement of the solid waste management alternatives
26 which will be utilized to manage the waste stream in the absence
27 of a district;

28 3. An affidavit executed by the chairperson of the county
29 boards of each petitioning county which states that the notice
30 provisions of B. and Minn. Stat. S 115A.66, subd. 1, have been
31 complied with; and

32 4. A copy of all written comments received by the
33 petitioners on the petition.

34 B. Additional local review requirements.

35 1. The notice of the petition published in newspapers of
36 general circulation in the district pursuant to Minn. Stat. S

1 115A.66, subd. 1, shall include a summary of the petition to
2 terminate, including a brief discussion of the potential
3 positive and negative impacts of terminating the district. The
4 notice shall also state that comments may be submitted on the
5 petition and provide the name and address of a person to whom
6 comments may be submitted. The notice shall be published at
7 least 60 days but not more than 120 days before the petition is
8 submitted to the board.

9 2. A copy of the petition shall be submitted to the
10 appropriate regional development commission or commissions, or,
11 if all or part of a metropolitan county is included within the
12 district, to the Metropolitan Council for review and comments at
13 least 60 days before submission of the petition to the board.

14 C. Termination review procedures.

15 1. The board shall accept a petition for review if it
16 conforms to the requirements of A. and Minn. Stat. S 115A.66.

17 a. If the petition does not conform with A. or Minn.
18 Stat. S 115A.66, the chairperson shall return it immediately to
19 the petitioners with a statement identifying the deficiencies in
20 the petition.

21 b. The board may require the petitioners to republish
22 the notice of termination and renotify political subdivisions if
23 the board determines that significant changes to the original
24 petition result from the corrected deficiencies.

25 2. If comments objecting to the termination of a district
26 are included with the petition, the board shall request the
27 Office of Administrative Hearings to conduct a hearing on the
28 petition. The hearing shall be held within 60 days after the
29 board accepts a petition.

30 3. Upon acceptance of a petition, the board shall
31 transmit copies of the petition to the board's Solid Waste
32 Management Advisory Council and Technical Advisory Council, and
33 the Director of the Pollution Control Agency, for their advice
34 and recommendations concerning the disposition of the petition.
35 Petitions to terminate a district which includes or extends into
36 a metropolitan county shall be referred to the Metropolitan

1 Council for review.

2 4. The Solid Waste Management Advisory Council and
3 Metropolitan Council shall make their recommendations to the
4 board within 60 90 days after receiving the petition. The
5 Technical Advisory Council and the director shall make their
6 recommendations to the board within 30 days after receiving the
7 petition.

8 D. Waste Management Board decision.

9 1. Within 60 days after receiving the Solid Waste
10 Management Advisory Council's recommendations, or in the
11 instance of a contested case hearing, within 60 days after
12 receiving the report of the hearing examiner, the board shall
13 determine whether termination of the district is in the public
14 interest. In determining whether the termination of a district
15 is in the public interest the board shall consider:

16 a. Whether the termination will reduce the need for
17 landfilling of solid waste or in some manner improve the
18 operation of solid waste landfills;

19 b. Whether the termination will improve the
20 coordination of solid waste management services in two or more
21 counties;

22 c. Whether the termination will enhance the protection
23 or preservation of the natural resources of the state;

24 d. Whether the termination will increase the potential
25 for resource recovery;

26 e. Whether the termination will provide for more
27 efficient or more convenient delivery of public or private solid
28 waste management services; and

29 f. Whether the purposes for which the district was
30 established have been accomplished or are no longer necessary to
31 accomplish; and

32 g. The impact the termination would have on the solid
33 waste management system serving the district.

34 2. The board shall not approve the termination of any
35 district which has outstanding bonds or obligations issued or
36 incurred pursuant to the authority granted in Minn. Stat. S

1 115A.71.

2 3. If the board determines that the termination of a
3 district as proposed in the petition would not be in the public
4 interest, the board shall notify the petitioners by certified
5 mail of its intent to deny the petition. If a contested case
6 hearing has not been held on the petition, and if the
7 petitioners request a contested case hearing within 30 days
8 after the board issues its notice of intent to deny the
9 petition, the board shall request the Office of Administrative
10 Hearings to conduct a hearing. The hearing shall be held within
11 60 days after the board receives the request for a hearing.
12 Within 60 days after the receipt of the hearing examiner's
13 report the board shall make its final decision on the petition.

14 4. If the board determines that termination would be in
15 the public interest, the board shall submit a certified copy of
16 its findings and order to each political subdivision wholly or
17 partly within the district, the Director of the Minnesota
18 Pollution Control Agency and to the Office of Secretary of State.

19 6 MCAR S 8.105 Designation of resource recovery facilities.
20 Articles of incorporation which would permit a district to
21 require that all or any portion of the solid waste generated
22 within the district's boundaries be taken to a designated
23 facility pursuant to Minn. Stat. S 115A.70 shall not be
24 effective prior to July 1, 1982. Districts which are
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26 established prior to July 1, 1982, may request authority to
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28 designate facilities on or after July 1, 1982. The request to
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30 designate facilities shall be considered a substantial change in
31 -----
32 the district's powers requiring a petition for alteration of the
33 -----
34 district. After July 1, 1982, review of articles of
35 -----
36 incorporation providing for designation of facilities shall be
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38 reviewed together with the review of the remainder of the
39 -----
40 petition for establishment of a district.
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33 6 MCAR S 8.106 Extension of review periods. Review periods
34 established by 6 MCAR SS 8.101 to 8.104 other than those
35 specifically required by Minn. Stat. SS 115A.62-115A.72, may,

1 upon request made prior to the expiration of the period, be
2 extended by the board, if, based on the complexity or
3 controversial nature of the petition, the requesting party is
4 able to demonstrate the need for more time. If the time periods
5 provided for review expire and no extension has been granted,
6 the board may proceed in its review of the petition without the
7 comments of the affected entity.

8 6 MCAR S 8.107 Additional information. The chairperson of the
9 board may, upon his own initiative or upon the request of any
10 person required to review the petition under 6 MCAR SS
11 8.101-8.104 or Minn. Stat. SS 115A.62-115A.72, request the
12 petitioners to supply additional information if the chairperson
13 determines that the information would be necessary or useful in
14 deciding whether the petition should be granted or denied.