

## Office of Administrative Hearings

### Proposed Permanent Rules Relating to Sanitary Districts, Boundary Petitions, and Proceedings.

#### **1408.0010 SCOPE.**

The provisions of this chapter apply to all proceedings conducted by the Office of Administrative Hearings involving sanitary districts formed under Minnesota Statutes, chapter 442A, and sanitary districts previously formed under Minnesota Statutes 2012, sections 115.18 to 115.37.

#### **1408.0020 SERVICE AND FILING PROCEDURES.**

Subpart 1. **Service and filing; electronic notifications and filings permitted.** The provisions of part 1400.5550 apply to service and filing. In addition, petitioners and other parties may provide required notifications and filings to the Office of Administrative Hearings by electronic transmission in the manner approved by that office.

Subp. 2. **Exhibits.** Except as provided in subpart 1, forms, documents, or written materials prepared specifically for and used or filed in contested proceedings before the office must be on standard size 8-1/2-inch by 11-inch paper.

Subp. 3. **Oversized materials.** An oversized exhibit may be received into the hearing record, with approval of the judge, provided that a duplicate original of the exhibit, conforming to the standards of subpart 2, is submitted into the record.

Subp. 4. **Computation of time.** The provisions of part 1400.6100 apply to computation of time.

#### **1408.0030 COST OF PUBLICATIONS AND MAILINGS.**

The petitioners must pay the costs of all publications and mailings required to be made by the Office of Administrative Hearings by Minnesota Statutes, chapter 442A. The administrative law judge shall identify the amounts and order payment.

**1408.0040 INTERVENTION.**

Subpart 1. **Petition.** A person who desires to intervene as a party in a contested case proceeding relating to the creation, annexation, detachment, or dissolution of a sanitary district shall submit to the judge a timely written petition to intervene. The petition must be served upon all of the existing parties. The judge shall determine timeliness in each case based on circumstances at the time of filing. The petition must:

A. show how the petitioner's legal rights, duties, or privileges may be determined or affected by the contested case;

B. show how the petitioner may be directly affected by the outcome or that the petitioner's participation is authorized by statute, rule, or court decision;

C. set forth the grounds and purposes for which intervention is sought; and

D. indicate petitioner's statutory right to intervene if one should exist.

Subp. 2. **Objection.** A party may object to the petition for intervention by filing a written notice of objection with the judge within seven days of service of the petition or, upon good cause shown, orally at the hearing. The notice must state the party's reasons for objection and must be served upon all parties and the person petitioning to intervene.

Subp. 3. **Hearing on petition.** If necessary to develop a full record on the question of intervention, the judge shall conduct a hearing on the petition to determine specific standards that apply to each category of intervenor, and to define the scope of intervention.

Subp. 4. **Order.** Upon compliance with this section, the judge shall allow intervention unless the judge finds that the petitioner's interest is adequately represented by one or more parties participating in the case. An order allowing intervention must specify the extent of participation permitted the petitioner and must state the judge's reasons. A petitioner may be allowed to:

A. file a written brief without acquiring the status of a party;

B. intervene as a party with all the rights of a party; or

C. intervene as a party with all the rights of a party but limited to specific issues and to the means necessary to present and develop those issues.

Subp. 5. **Participation by public.** In the absence of a petition to intervene, the judge may hear the testimony and receive exhibits from any person at the hearing or allow a person to note that person's appearance, but a person is not deemed to have become a party by reason of such participation and is not allowed to question other witnesses. Persons offering testimony or exhibits may be questioned by parties to the proceedings.

#### **1408.0050 CONTESTED CASE PROCEEDINGS.**

Subpart 1. **Conduct of hearings.** To the extent not inconsistent with Minnesota Statutes, chapter 442A, a hearing on any contested sanitary district boundary adjustment must be conducted according to parts 1408.0010 to 1408.0070.

Subp. 2. **Duties of administrative law judge.** The provisions of parts 1400.5500 and 1400.6400 apply to the duties of the administrative law judge.

Subp. 3. **Representation.** The provisions of part 1400.5800 apply to representation.

Subp. 4. **Notice of appearance.** Each party intending to appear at a contested case hearing shall file with the judge and serve upon all other known parties a notice of appearance. The notice must advise the judge of the party's intent to appear and indicate the title of the case, the docket number, the party's current address and telephone number, and the name, office address, and telephone number of the party's attorney or other representative. After an attorney has filed a notice of appearance, withdrawal by the attorney is effective only if a notice of withdrawal is served on all parties and filed with the judge. The notice of withdrawal must include the address and telephone number of the party. Withdrawal of counsel does not create any right to a continuance.

Subp. 5. **Alternative dispute resolution.** The provisions of parts 1400.5900, 1400.5950, and 1400.6550 apply to alternative dispute resolution.

Subp. 6. **Default.** The judge shall dispose of a contested case adverse to a party which defaults. A default occurs when a party fails to appear without the prior consent of the judge at a prehearing conference, settlement conference, or a hearing, or fails to comply with any interlocutory orders of the judge.

Subp. 7. **Prehearing conference.** The provisions of part 1400.6500 apply to prehearing conferences.

Subp. 8. **Motions.** The provisions of part 1400.6600 apply to motions.

Subp. 9. **Discovery.** The provisions of parts 1400.6700, 1400.6800, and 1400.6900 apply to discovery.

Subp. 10. **Prefiling witness lists and exhibits.** The provisions of part 1400.6950 apply to prefiling witness lists and exhibits.

Subp. 11. **Subpoenas.** The provisions of part 1400.7000 apply to subpoenas.

Subp. 12. **Rights and responsibilities of parties.** The provisions of part 1400.7100 apply to the rights and responsibilities of the parties.

Subp. 13. **Witnesses.** The provisions of part 1400.7200 apply to witnesses.

Subp. 14. **Rules of evidence.** The provisions of part 1400.7300 apply to the rules of evidence.

Subp. 15. **Hearing record.** The provisions of part 1400.7400 apply to the hearing record.

Subp. 16. **Continuances.** The provisions of part 1400.7500 apply to continuances.

Subp. 17. **Conduct of the hearing.** The provisions of part 1400.7800 apply to conduct of the hearing.

Subp. 18. **Disruption of the hearing.** The provisions of part 1400.8000 apply to disruption of the hearing.

Subp. 19. **Reconsideration or rehearing.** The provisions of part 1400.8300 apply to reconsideration or rehearing.

**1408.0060 EX PARTE COMMUNICATIONS.**

The provisions of part 1400.7700 apply to ex parte communications.

**1408.0070 ADMINISTRATIVE LAW JUDGE'S REPORT.**

The provisions of part 1400.8100 apply to the administrative law judge's report.