

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

AG copy

Waste Management Board

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

Rules as Adopted

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. A description of the solid waste management

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

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

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

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

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

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

B. Additional local review requirements.

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

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

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

C. Petition review procedures.

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

2. Petitions involving a district which includes or extends into a metropolitan county shall, upon acceptance, be referred to the Metropolitan Council for review. If the Metropolitan Council does not approve the establishment or alteration of the district, the board shall dismiss the petition. The Metropolitan Council shall make its decision within ~~60~~ 90 days after receiving the petition from the board.

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

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

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

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

D. Waste Management Board decision.

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

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

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

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

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

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

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

programs which the district proposes to undertake.

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

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

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

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

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

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

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

B. Additional local review requirements.

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

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

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

C. Termination review procedures.

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

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

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

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

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

Council for review.

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

D. Waste Management Board decision.

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

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

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

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

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

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

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

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

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

115A.71.

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

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

6 MCAR S 8.105 Designation of resource recovery facilities. Articles of incorporation which would permit a district to require that all or any portion of the solid waste generated within the district's boundaries be taken to a designated facility pursuant to Minn. Stat. S 115A.70 shall not be effective prior to July 1, 1982. Districts which are established prior to July 1, 1982, may request authority to designate facilities on or after July 1, 1982. The request to designate facilities shall be considered a substantial change in the district's powers requiring a petition for alteration of the district. After July 1, 1982, review of articles of incorporation providing for designation of facilities shall be reviewed together with the review of the remainder of the petition for establishment of a district.

6 MCAR S 8.106 Extension of review periods. Review periods established by 6 MCAR SS 8.101 to 8.104 other than those specifically required by Minn. Stat. SS 115A.62-115A.72, may,

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

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

too vague

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Waste Management Board

Rule Numbers: 6 MCAR S 8.101-6 MCAR S 8.107

Rule Title: Adopted Rules Governing the Establishment, Alteration, and Termination of Solid Waste Management Districts

Type of Rules: Permanent X

Temporary _____

Documents Incorporated by Reference:

The attached Rules are approved as to form.

Steven C. Cross
Revisor of Statutes

APPROVED AS TO LEGALITY
Dec. 22 1981
WARREN SPANNAUS, ATTORNEY GENERAL
BY Ted A. Marlow
SPECIAL ASSISTANT ATTORNEY GENERAL

Name: Lorna M. Breiter
Lorna M. Breiter
Title: Assistant Revisor

Phone: 296-2778

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 23 1981
Joan Anderson Growe
Secretary of State
9:27 A.M.

Our File No. 248

Submission rejected 11/17

RULE REVIEW CHECKLIST

DATE RULE RECEIVED ~~11-12~~ 12/11
DATE FOR REVIEW ~~11-23~~ 12/21
DATE DUE ~~11-27~~ 12/24

Adopted w/a hearing _____
Adopted w/o a hearing X
Temporary rule _____

Approved _____ Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved 12/16/81
disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 10.22.81 Date

✓ Notice of Intent to Solicit Outside Opinion 11/17/80

✓ Order for rulemaking
N/A Date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
8.10.81 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
8.10.81 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

✓ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

NA Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : RUSSELL B. SWANSON, Commissioner
Department of Labor & Industry
ATTN: Spec. Asst. Atty. Gen. STEVE GUNN
5th Floor, Space Center Building

DATE: 12/23/81

FROM : TED A. MARTINEZ
Special Assistant Attorney General
Administration Division

PHONE: 296-0315

SUBJECT: IN THE MATTER OF THE PROPOSED ADOPTION OF RULES GOVERNING (A) RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES, (B) DISCRIMINATION AGAINST EMPLOYEES, AND (C) ACCESS TO EMPLOYEE EXPOSURE AND MEDICAL RECORDS

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : ROBERT G. DUNN, Chairman
Waste Management Board
ATTN: Spec. Asst. Atty. Gen. Lee Paddock
1935 West Co. Rd. B2

DATE: 12/23/81

FROM : TED A. MARTINEZ
Special Assistant Attorney General
Administration Division

PHONE: 296-0315

SUBJECT: IN THE MATTER OF THE PROPOSED RULES OF THE STATE WASTE MANAGEMENT BOARD GOVERNING THE ESTABLISHMENT, ALTERATION, AND TERMINATION OF SOLID WASTE MANAGEMENT DISTRICTS

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

To: Ted Martinez
Date: 12/18/81
Re: Waste Management Board

Rules as Adopted

p. 4. Lines 19, 20 — 8.103 C. 2.

Appears to govern the procedures of the Metropolitan Council. Not clear that the authorising statute gives the Waste Management Board authority over the Metro Council.

8.103 C. 3.

p. 4 Line 21

It is not clear how many "comments" will require the commissioner to go to hearing. It would seem prudent to set some minimum, otherwise perhaps receipt of just two comments would require a hearing

p. 7 — 8.104 C. 2.

Same problem as above with "comments"

p. 10 Line 13 — 8.107

Appears to give the chairperson considerable discretion in determination of what additional information would be "necessary or useful" with no criteria stated to guide his determination

December 15, 1981
AR0041

OFFICE OF THE REVISOR OF STATUTES
Disapproval of Form of Rules

X The form of the attached rules is not approved. The revisor requests the changes described below before the rules will be approved.

Page 10, line 2, after "and" delete "comment" and insert "comments" which appeared in the State Register

Page 10, line 8, after "S 115A.66" insert a comma which appeared in the State Register

Page 12, line 7, after "efficient" delete the comma which did not appear in the State Register

Steven C. Cross
Revisor of Statutes

Name: Lorna M. Breiter
Lorna M. Breiter

Title: Assistant Revisor

Phone: 296-2778

____ The changes requested by the revisor are approved by the agency.

____ The changes requested by the revisor are not approved by the agency

Agency's Representative

____ The attorney general agrees that the changes requested by the revisor are form changes, not substantive changes.

Assistant Attorney General

ADOPTED RULES OF THE STATE WASTE MANAGEMENT BOARD GOVERNING ESTABLISHMENT, ALTERATION, AND TERMINATION OF SOLID WASTE MANAGEMENT DISTRICTS

The rules published and proposed at State Register, Volume 6, Number 6, pp. 161-165, August 10, 1981 (6 S.R. 161) are now adopted, with the following amendments.

Rules as Adopted

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

6 MCAR § 8.102 Definitions. For the purposes of 6 MCAR §§ 8.101-8.107, the following terms have the meaning given them, unless the context requires otherwise.

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

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

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

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

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

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

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

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

6 MCAR § 8.103 Petition requirements and procedures for establishment or alteration of a district.

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

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

2. A physical description of the geographic area and a brief description of the social and economic characteristics of

the political subdivisions within the proposed boundaries of the district or alteration to a district;

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

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

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

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

7. A description of the solid waste management improvements and facilities which are envisioned, together with a discussion of the impact that the improvements and facilities will have on the solid waste management problems identified by the petitioners, and on the existing solid waste management system;

8. The proposed articles of incorporation or proposed changes in the articles of incorporation signed by the

chairperson of all petitioning county boards specifying which of the powers identified in Minn. Stat. §§ 115A.69 and 115A.71 the petitioners believe the district should exercise and any other powers which the petitioners believe are necessary or convenient to accomplishing the purposes, goals, and objectives of the district, together with a statement of why each proposed power is necessary or convenient to accomplishing the purposes, goals, and objectives of the district;

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

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

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

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

B. Additional local review requirements.

1. The notice of the petition published in newspapers of general circulation in the district as required by Minn. Stat. § 115A.64, subd. 3 shall include a summary of purposes, goals, objectives and proposed powers of the district. The notice shall state that comments on the petition may be submitted and provide the name and address of a person to whom comments may be submitted. The notice shall be published at least 60 days but no more than 120 days before the petition is submitted to the board.

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

C. Petition review procedures.

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

2. Petitions involving a district which includes or extends into a metropolitan county shall, upon acceptance, be referred to the Metropolitan Council for review. If the Metropolitan Council does not approve the establishment or alteration of the district, the board shall dismiss the petition. The Metropolitan Council shall make its decision within ~~60~~ 90 days after receiving the petition from the board.

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

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

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

6. The Director of the Pollution Control Agency shall complete and submit to the board the report required by Minn. Stat. § 115A.64, subd. 4, within 30 days after receiving the petition. In addition to the issues which the report must address under Minn. Stat. § 115A.64, subd. 4, the report shall comment on whether the proposed articles of incorporation of the district provide the district with adequate solid waste management administrative, planning, and enforcement authority to

properly and safely carry out the solid waste management programs which the district proposes to undertake.

D. Waste Management Board decision.

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

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

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

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

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

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

f. Whether the articles of incorporation of the district provide the district with adequate solid waste management planning, administrative, and enforcement authority to properly and safely carry out the solid waste management programs which the district proposes to undertake.

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

6 MCAR § 8.104 Petition requirements and procedures for termination of a district.

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

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

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

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

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

B. Additional local review requirements.

1. The notice of the petition published in newspapers of general circulation in the district pursuant to Minn. Stat. § 115A.66, subd. 1, shall include a summary of the petition to terminate, including a brief discussion of the potential positive and negative impacts of terminating the district. The notice shall also state that comments may be submitted on the petition and provide the name and address of a person to whom comments may be submitted. The notice shall be published at least 60 days but not more than 120 days before the petition is submitted to the board.

2. A copy of the petition shall be submitted to the appropriate regional development commission or commissions, or,

if all or part of a metropolitan county is included within the district, to the Metropolitan Council for review and comment at least 60 days before submission of the petition to the board.

C. Termination review procedures.

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

a. If the petition does not conform with A. or Minn. Stat. § 115A.66 the chairperson shall return it immediately to the petitioners with a statement identifying the deficiencies in the petition.

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

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

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

Petitions to terminate a district which includes or extends into a metropolitan county shall be referred to the Metropolitan Council for review.

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

D. Waste Management Board decision.

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

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

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

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

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

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

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

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

2. The board shall not approve the termination of any district which has outstanding bonds or obligations issued or incurred pursuant to the authority granted in Minn. Stat. § 115A.71.

3. If the board determines that the termination of a district as proposed in the petition would not be in the public interest, the board shall notify the petitioners by certified mail of its intent to deny the petition. If a contested case hearing has not been held on the petition, and if the petitioners request a contested case hearing within 30 days after the board issues its notice of intent to deny the petition, the board shall request the Office of Administrative Hearings to conduct a hearing. The hearing shall be held within 60 days

after the board receives the request for a hearing. Within 60 days after the receipt of the hearing examiner's report the board shall make its final decision on the petition.

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

6 MCAR § 8.105 Designation of resource recovery facilities. Articles of incorporation which would permit a district to require that all or any portion of the solid waste generated within the district's boundaries be taken to a designated facility pursuant to Minn. Stat. § 115A.70 shall not be effective prior to July 1, 1982. Districts which are established prior to July 1, 1982, may request authority to designate facilities on or after July 1, 1982. The request to designate facilities shall be considered a substantial change in the district's powers requiring a petition for alteration of the district. After July 1, 1982, review of articles of incorporation providing for designation of facilities shall be reviewed together with the review of the remainder of the petition for establishment of a district.

6 MCAR § 8.106 Extension of review periods. Review periods established by 6 MCAR §§ 8.101 to 8.104 other than those specifically required by Minn. Stat. §§ 115A.62-115A.72, may, upon request made prior to the expiration of the period, be extended by the board, if, based on the complexity or controversial nature of the petition, the requesting party is able to demonstrate the need for more time. If the time periods provided for review expire and no extension has been granted, the board may proceed in its review of the petition without the comments of the affected entity.

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

Rules as Proposed (all new material)

PROPOSED RULES
WASTE MANAGEMENT BOARD

Establishment, Termination and Alteration of Solid Waste Management Districts

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6 MCAR § 8.301 Authority and Purpose

Sections 8.301 to 8.308 provide for the establishment, termination, and alteration of solid waste management districts as required by Minn. Stat. § 115A.63, subd. 2 (1980). The sections govern the process by which local petitions to establish, alter or terminate the boundaries, powers and responsibilities of solid waste management districts are submitted to the Waste Management Board, and the process by which the Waste Management Board will review the petitions.

6 MCAR § 8.302 Definitions

A. The following terms shall have the meaning given them in Minn. Stat. § 115.03, unless the context requires otherwise: agency, board, collection, disposal, disposal facility, metropolitan area, metropolitan council, person, processing, regional development commission, resource recovery, resource recovery facility, solid waste, solid waste management district or waste district, transfer station, waste facility, and waste management.

B. For the purpose of these rules the following terms shall have the meaning given them, unless the context requires otherwise.

1. Alteration. "Alteration" means changes to the geographic boundaries or the articles of incorporation of a solid waste management district.

2. Chairperson. "Chairperson" means the chairperson of the Waste Management Board.

3. Director. "Director" means the director of the Minnesota Pollution Control Agency.

4. Metropolitan county. "Metropolitan county" means the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

5. Non-metropolitan county. "Non-metropolitan county" means those counties within Minnesota which are not metropolitan counties.

6. Solid Waste Management Advisory Council. "Solid Waste Management Advisory Council" has the meaning given it in Minn. Stat. § 115A.12, subd. 1.

7. Technical Advisory Council. "Technical Advisory Council" has the meaning given it in Minn. Stat. § 115A.12, subd. 2.

6 MCAR § 8.303 Solid Waste Management District Establishment and Alteration Procedures

A. Petition Contents. A petition requesting establishment or alteration of a solid waste management district shall contain the following:

1. the name of the proposed solid waste management district;

2. a physical description of the geographic area and a brief description of the social and economic characteristics of

the political subdivisions within the proposed boundaries of the district or alteration to a district;

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

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

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

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

7. a description of the solid waste management improvements and facilities which are envisioned together with a discussion of the impact that the improvements and facilities will have on the solid waste management problems identified by the petitioners;

8. the proposed articles of incorporation or proposed changes in the articles of incorporation signed by the chairperson of all petitioning county boards specifying which of the powers identified in Minn. Stat. §§ 115A.69 and 115A.71 (1980) the petitioners believe the district should exercise and any other power which the petitioners believe are necessary or convenient to

accomplishing the purposes, goals and objectives of the district, together with a statement of why each proposed power is necessary or convenient to accomplishing the purposes, goals and objectives of the district;

9. a resolution signed by the chairperson of the county board of each petitioning county which identifies the reasons that joint powers agreements under Minn. Stat. § 471.59 are not sufficient to provide the legal, planning, management or administrative structures necessary to implement the solid waste management powers identified in the district's articles of incorporation;

10. an affidavit executed by the chairperson of the county board of each petitioning county which indicates that the local review and comment provisions of Minn. Stat. § 115A.64, subd. 3, and 6 MCAR § 8.303B. have been complied with;

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

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

B. Additional Local Review Requirements.

1. The notice of the petition published in newspapers of general circulation in the district shall include a summary of purpose, goals, objectives and proposed powers of the district.

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

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

C. Petition Review Procedures

1. The board shall accept a petition for review if it conforms to the requirements of Minn. Stat. §§ 115A.62 to 115A.72 and 6 MCAR §§ 8.301 to 8.308.

2. Petitions involving a district which includes or extends into a metropolitan county shall, upon acceptance, be referred to the Metropolitan Council for review. If the Metropolitan Council does not approve the establishment or alteration of the district, the board shall dismiss the petition. The Metropolitan Council shall make its decision within 60 days after receipt of the petition from the board.

3. If comments have been received by the chairperson objecting to the establishment or alteration of the district, the chairperson shall request the office of administrative hearings to conduct a public hearing on the petition. The hearing shall be held within 60 days after the board has accepted the petition.

4. Upon acceptance of a petition, the board shall transmit copies of the petition to the board's solid waste management advisory council and technical advisory council, and the director of the Pollution Control Agency for their advice and recommendations concerning the disposition of the petition.

5. The solid waste management advisory council shall make its recommendations to the board within 60 days after receipt of the petition. The technical advisory council shall make its recommendations to the board within 30 days after receipt of the petition.

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

D. Waste Management Board Decision

1. Within 60 days after receiving the recommendations from the solid waste management advisory council, or, in the instance of a contested case proceeding, after receiving the

report from the hearing examiner, the board shall make its decision on whether establishment or alteration of the district is in the public interest and serves the purposes of Minn. Stat. §§ 115A.62 to 115A.72. In making this decision the board shall consider:

a. whether the district will reduce the need for landfilling of solid waste or improve the operation of solid waste landfills;

b. whether the district will provide coordinated solid waste management by all or portions two or more counties;

c. whether the establishment or alteration of a district will enhance the protection or preservation of natural resources of the state;

d. whether the district will increase the potential for resource recovery;

e. whether the delivery of solid waste management services, public or private will be more efficient, more convenient.

f. whether the articles of incorporation of the district provide the district with adequate solid waste management planning, administrative, and enforcement authority to properly and safely carry out the solid waste management programs which the district proposes to undertake.

2. If the board determines that the establishment or alteration of a district as proposed in the petition would not be in the public interest and would not serve the purposes of Minn. Stat. §§ 115A.62 to 115A.72, the board shall notify the petitioners by certified mail of its intent to deny the petition. If a contested case hearing has not been held on the petition, and if the petitioners request a contested case hearing within 30 days after the board issues its notice of intent to deny the petition, the board shall request the office of administrative hearings to conduct a hearing. The hearing shall be held within 60 days after the board receives the request for a hearing. The board shall make its final decision on the petition within 60 days after the receipt of the hearing examiner's report. In addition to the notification requirements of Minn. Stat. § 115A.64, subd. 4, the board shall also notify the Minnesota Pollution Control Agency of its decision.

6 MCAR § 8.304 Solid Waste Management District Termination Procedures

A. Petition Contents. A petition to terminate a district shall include:

1. a statement identifying why the district is no longer in the public interest addressing at least those issues specified in 6 MCAR § 8.303D.1.;

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

3. an affidavit executed by the chairperson of the county boards of each petitioning county which states that the notice provisions of Minn. Stat. § 115A.66, subd. 1, have been complied with.

4. all comments received by the petitioners on the petition.

B. Additional Local Review Requirements

1. The notice of the petition published in newspapers of general circulation in the district shall include a summary of the petition to terminate including a brief discussion of the potential positive and negative impacts of terminating the district. The notice shall also state that comments may be submitted on the petition and provide the name and address of a person to whom comments may be submitted. The notice shall be published at least 60 days but not more than 120 days before the petition is submitted to the board.

2. A copy of the petition shall be submitted to the appropriate regional development commission(s), or, if all or part of a metropolitan county is included within the district, to the Metropolitan Council for review and comment at least 60 days before submission of the petition to the Board.

C. Termination Review Procedures

1. The board shall accept a petition for review if it conforms to the requirements of Minn. Stat. § 115A.66 of the Act and 6 MCAR § 8.304A.

a. If the petition does not conform with Minn. Stat. § 115A.66 or 6 MCAR § 8.304A., the chairperson shall return it immediately to the petitioners with a statement identifying the deficiencies in the petition.

b. The board may require the petitioners to re-publish the notice of termination and re-notify political subdivisions if the board determines that significant changes to the original petition result from the corrected deficiencies.

2. If comments objecting to the termination of a district are included with the petition, the board shall request the office of administrative hearings to conduct a hearing on the petition. The hearing shall be held within 60 days after the board accepts a petition.

3. Upon acceptance of a petition, the Board shall transmit copies of the petition to the board's solid waste management advisory council and technical advisory council, and the director of the Pollution Control Agency, for their advice and recommendations concerning the disposition of the petition. Petitions to terminate a district which includes or extends into a metropolitan county shall be referred to the Metropolitan Council for review.

4. The solid waste management advisory council and Metropolitan Council shall make their recommendations to the board within 60 days after receipt of the petition. The technical advisory council and the director shall make their recommendations to the board within 30 days after receipt of the petition.

D. Waste Management Board Decision

1. Within 60 days after receiving the solid waste management advisory council's recommendations, or in the instance of a contested case hearing, after receiving the report of the hearing examiner, the board shall determine whether termination of the district is in the public interest. In determining whether the termination of a district is in the public interest the board shall consider:

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

b. whether the termination will improve the coordination of solid waste management services in two or more counties;

c. whether the termination will enhance the protection or preservation of the natural resources of the state;

d. whether the termination will increase the potential for resource recovery;

e. whether the termination will provide for more efficient, or more convenient delivery of public or private solid waste management services;

f. whether the purposes for which the district was established have been accomplished or are no longer necessary to accomplish.

2. The board shall not approve the termination of any district which has outstanding bonds or obligations issued or incurred pursuant to the authority granted in Minn. Stat. § 115A.71.

3. If the board determines that the termination of a district as proposed in the petition would not be in the public interest, the board shall notify the petitioners by certified mail of its intent to deny the petition. If a contested case hearing has not been held on the petition, and if the petitioners request a contested case hearing within 30 days after the board issues its notice of intent to deny the petition, the board shall request the office of administrative hearings to conduct a hearing. The hearing shall be held within 60 days after the board receives the request for a hearing. Within 60 days after the receipt of the hearing examiner's report the board shall make its final decision on the petition.

4. If the board determines that termination would be in the public interest, the board shall submit a certified copy of its findings and order to each political subdivision wholly or

partly within the district, the director of the Minnesota Pollution Control Agency and to the office of Secretary of State.

6 MCAR § 8.305 Designation of Resource Recovery Facilities

Articles of Incorporation which would permit a district to require that all or any portion of the solid waste generated within the district's boundaries be taken to a designated facility pursuant to Minn. Stat. § 115A.70 shall not be effective prior to July 1, 1982.

6 MCAR § 8.306 Extension of Review Periods

Review periods established by 6 MCAR §§ 8.301 to 8.304 other than those specifically required by Minn. Stat. §§ 115A.62 to 115A.72, may, upon request made prior to the expiration of the period, be extended by the board, if, based on the complexity or controversial nature of the petition, the requesting party is able to demonstrate the need for more time. If the time periods for review provided expire and no extension has been granted, the board may proceed in its review of the petition without the comments of the affected entity.

6 MCAR § 8.307 Additional Information

The chairperson of the board may, upon his own initiative or upon the request of any person required to review the petition under 6 MCAR §§ 8.301 to 8.304 or Minn. Stat. §§ 115A.62 - 115A.72, request the petitioners to supply additional information if the chairperson determines that the information would be necessary or useful in deciding whether the petition should be granted or denied.

6 MCAR § 8.308 Severability

The provisions of 6 MCAR §§ 8.301 to 8.308 are severable, and if any section, subsection, clause, sentence or other provision of the rules is held invalid for any reason, such invalidity shall not affect the validity of these rules as a whole or the validity of any other section, subsection, clause, sentence, or other provision, which can be given effect without the invalid provision.

STATE OF MINNESOTA

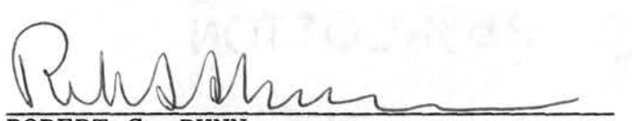
WASTE MANAGEMENT BOARD

In the Matter of the Proposed Rules of the State Waste Management Board Governing the Establishment, Alteration, and Termination of Solid Waste Management Districts	Docket No. WMB-002-81 ORDER ADOPTING RULES

Notice of the Board's intent to adopt the above-entitled rules without a public hearing was published in the State Register on August 10, 1981, and was sent by United States mail to all persons on the list maintained by the Board pursuant to Minnesota Statutes Section 15.0412, subd. 4, on August 10, 1981. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and above-entitled rules,

NOW THEREFORE, IT IS ORDERED that these rules identified as rules governing the Establishment, Alteration and Termination of Solid Waste Districts are adopted this 22nd day of October, 1981 pursuant to the authority vested in the Board by Minnesota Statutes Section 115A.63, subd. 2.

STATE OF MINNESOTA



ROBERT G. DUNN
Chairman
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

Notice of Intent to Solicit Outside Opinions and Information Concerning Rules Governing the Establishment, Alteration, and Termination of Solid Waste Management Districts

Notice is hereby given that the Waste Management Board is seeking opinions and information from sources outside the agency for the purpose of preparing rules governing the establishment, alteration, and termination of solid waste management districts. Such rules are authorized by 1980 Minn. Laws Ch. 564, Art. VIII, § 2.

Under the Waste Management Act, 1980 Minn. Laws Ch. 564, waste management districts may be established by the Waste Management Board as public corporations and political subdivisions of the state with powers related to solid waste management. Waste management districts can not be established wholly within one county.

Any person desiring to submit information or comment on the subject of the proposed rules may do so either orally or in writing. All statements of information or comment must be received by December 31, 1980. Any written material received by this date will become part of the record of any rules hearing on this subject. Written or oral information or comment should be addressed to:

Waste Management Board
Attn: Robert Pulford
123 Thorson Building
7323 - 58th Avenue North
Crystal, Minnesota 55428
612/536-0816

Dated: November 4, 1980

Robert G. Dunn, Chairman
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules of the State Waste Management Board Governing Establishment, Alteration, and Termination of Solid Waste Management Districts	Docket No. WMB-002-81 ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 25th day of June, 1981, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Waste Management Board for that purpose and be published in the State Register.

STATE OF MINNESOTA

ROBERT G. DUNN
Chairman
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules of the State Waste Management Board Governing the Establishment, Alteration, and Termination of Solid Waste Management Districts	Docket No. WMB-002-81 CERTIFICATE OF BOARD'S AUTHORIZING RESOLUTION

I, Robert G. Dunn, do hereby certify that I am a member and the Chairman of the Waste Management Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Waste Management Board duly and properly called and held on the 25th day of June, 1981, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that Robert G. Dunn, Chairman of the Waste Management Board, be and he hereby is granted the authority and directed to sign an Order of the Board directing that Notice be given of the Board's intent to adopt without a public hearing rules governing the establishment, alteration and termination of solid waste management districts to sign the Notice thereof, and to perform any and all acts incidental thereto. In the event a public hearing becomes necessary, he hereby is granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as perform any and all acts incidental thereto, including but without being limited to signing an Order for Hearing and Notice of Hearing as well as acting as the Board's representative at all hearings."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25th day of June, 1981.

Robert G. Dunn

ROBERT G. DUNN
Chairman, Waste Management Board

Attest: Laurence E. Hunter

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD
123 THORSON BUILDING
7323 58TH AVENUE NORTH
CRYSTAL, MINNESOTA 55428

ROBERT G. DUNN
CHAIRMAN
TELEPHONE:
METRO AREA (612) 536-0816
OUTSTATE 1-800-652-9747

August 7, 1981

The Waste Management Act of 1980 provided that the Minnesota Waste Management Board adopt rules that govern the establishment,alteration and termination of solid waste management districts.

The proposed rules will be published in the State Register August 13, 1981. Persons wishing to request a public hearing or comment on the proposed rules must do so within 30 calendar days from August 13, 1981.

Sincerely,

Robert Pulford
Solid Waste Coordinator

RP:sv

BOARD MEMBERS:
DISTRICT 1 LAURENCE HUNTER, Hastings
DISTRICT 2 KEITH KUITERS, Clarks Grove
DISTRICT 3 WILLIAM KIRCHNER, Richfield
DISTRICT 4 MILTON KNOLL, JR, White Bear Lake
DISTRICT 5 LOUISE KUDERLING, Minneapolis
DISTRICT 6 THOMAS RENNER, Elk River
DISTRICT 7 ALLAN EIDE, Hitterdal
DISTRICT 8 DAVID HARTLEY, Hermantown

Waste Management Board

Proposed Rules Governing the Establishment,
Alteration, and Termination of
Solid Waste Management Districts

Notice of Intent to
Adopt Rules Without
a Public Hearing

Docket No. WMB-002-81

NOTICE IS HEREBY GIVEN that the State Waste Management Board proposes to adopt the above-entitled rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes Section 15.0412, subd. 4(h) (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes Section 15.0412, subds. 4-4(f).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Waste Management Board
Attention: Robert Pulford
123 Thorson Building
7323 - 58th Avenue North
Crystal, Minnesota 55428
(612) 536-0816

Authority for the adoption of these rules is contained in Minnesota Statutes Section 115A.63, subd. 2. Additionally, a Statement of Need and Reasonableness that describes the need

for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Waste Management Board, Attention: Robert Pulford, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, Minnesota 55428, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Waste Management Board, Attention: Robert Pulford, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, Minnesota 55428.

The rules proposed for adoption relate to the following matters: (1) procedures for establishing and altering the powers and boundaries of a solid waste management district including the criteria by which the Waste Management Board will determine whether a district should be established or altered; (2) procedures for terminating a solid waste management district, including the criteria by which the Waste Mangement Board will determine whether a district should be terminated; (3) designation of resource recovery facilities; (4) extension of review periods; and (5) requests for additional information.

Copies of this Notice and the proposed rules are available and may be obtained by contacting the Waste Management Board, Attention: Robert Pulford, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, Minnesota 55428.

Dated: June 24, 1981

STATE OF MINNESOTA

ROBERT G. DUNN
Chairman
Waste Management Board

Robert R. Distad
Ass't County Attorney
Dakota County Attorney's Office
Dakota County Gov't Center
1560 West Highway 55
Hastings, MN 55033

Dave Gurney
Environmental Engineer
Dakota County Hwy Dept.
Dakota County Government Center
1560 West Hwy 55
Hastings, MN 55033

Floyd J. Forsberg
City of St. Paul, Dept. of Public Works
600 City Hall Annex
St. Paul, MN 55102

Edward L. Kuhlney
Region 10, Southern MN RDC
301 Marguette Bank Bldg.
Rochester, MN 55901

Arlene Farver
Donohue & Associates, Inc.
7400 Metro Blvd. Suite 310
Minneapolis, MN 55435

Susan J. Strand
Legal Dept., Land O'Lakes
P.O. Box 116
Minneapolis, MN 55440

I.V.Fordyce
Manager Environmental Control
Am. Crystal Sugar Company
101 N. Third Street
Moorhead, MN 56560

Kevin C. Jones
George A. Hormel & Co.
P.O. Box 800
Austin, MN 55912

Norma Schumacher, Leg. Consultant
O'Connor & Hannan
38th Floor - IDS Tower
Minneapolis, MN 55402

G. Robert Johnson
4344 IDS Center
Minneapolis, MN 55402

Archie D. Chelseth
Manager Public Affairs
Potlatch Corporation
Box 510
Cloquet, MN 55720

Marc Hugunin
The Concept Companies, Inc.
One Paramount Plaza
7801 E. Bush Lake Rd.
Minneapolis, MN 55435

Bonnie M. Spencer
Federal-State Reports, Inc.
5203 Leesburg Pike, Suite 1201
Falls Church, Virginia 22041

Joseph S. Hensel
Rochester Public Utilities
506 First Ave. NE Box 6057
Rochester, MN 55901

General Mills, Inc.
ATTN: Dr. J. W. Haun-45W
P.O. Box 1113
Minneapolis, MN 55440

Mn. Dept. of Transportation
ATTN: Cheryl Heide
Rm 807, Transportation Bldg.
John Ireland Boulevard
St. Paul, MN 55155

Patricia Jensen
Governor's Office Rm 130
State Capitol
St. Paul, MN 55155

Craig Waldron
Region Nine Development Commission
410 S. 5th Street, P.O. Box 3367
Mankato, MN 56001

John A. Knapp
Hessian, McKasy & Soderberg
1500 Midwest Plaza Building
Minneapolis, MN 55402

Robert S. Burk
4344 IDS Center
Minneapolis, MN 55402

~~3/19/81~~
4/1/81

MINNESOTA
WASTE MANAGEMENT BOARD

DISTRIBUTION LIST FOR NOTIFICATION OF RULEMAKING

Mr. Joseph D. Bizzano, Jr.
Ms. JoAnn MCGuire
Northern States Power, Law Dept.
414 Nicollet Mall
Minneapolis, MN 55401

Dr. Roger V. Blomquist
Environmental Research Group, Inc.
4663 W. Chatsworth St.
St. Paul, MN 55112

Bernard L. Brommer
Executive Vice President
Minnesota AFL-CIO
175 Aurora Avenue
St. Paul, MN 55103

Charles A. Schaffer
Mn. Dept. of Economic Development
480 Cedar St.
St. Paul, MN 55101

R. A. Garvey
North Star Steel Company
P.O. Box 43189, 1678 Red Rock Rd.
St. Paul, MN 55164

Dr. Robert A. Reid
Manager, Corporate Environmental Health
Honeywell, Inc.
Honeywell Plaza (MN12-3175)
Minneapolis, MN 55408

W. C. Viitala
Director of Public Affairs
Honeywell, Inc.
Honeywell Plaza (MN12-5215)
Minneapolis, MN 55408

Broeker, Hartfeldt, Hedges, & Grant
2850 Metro Dr. - Suite 800
Bloomington, MN 55420

Charles R. Jacoby
Senior Chemical Engineer
The Gillette Company
St. Paul Manufacturing Center
Fifth at Broadway
St. Paul, MN 55101

Minnesota Petroleum Council
300 Northern Federal Bldg.
St. Paul, MN 55102

Dr. Daryl A. Thingvold
Serco Laboratories
1931 W. County Rd. C2
Roseville, MN 55113

Vern Tate
Legislative Research 3-M
3-M Center
St. Paul, MN 55101

Scott Schuler, Env. Tech.
Cooperative Power Association
3316 W. 66th St.
Minneapolis, MN 55435

Carol Propotnik
MPIRG
2412 University Ave. S.E.
Minneapolis, MN 55414

Forrest D. Nowlin
Larkin, Hoffman, Daly & Lindgren, Ltd.
1500 Northwestern Financial Center
7900 Xerxes Avenue Sp.
Minneapolis, MN 55431

Susan P. Robertson
Executive Director, LCRAR
Room 430 State Office Bldg.
St. Paul, MN 55155

R. G. Kirkham, Exec. Dir.
Minnesota Municipal Utilities Assoc.
P.O. Box B
10 Central Avenue
Buffalo, MN 55313

Richard P. Cox
Metro Inter-County Association
2305 Ford Parkway, Suite 103
St. Paul, MN 55116

Curt Sparks MPCA
Solid Waste Division
1935 W. Co. Rd. B2
Roseville, MN 55113

INTERESTED AGENCIES

SOLID WASTE
DISTRICT PROGRAM

James Shipman
MN Assoc of Counties
2305 Ford Parkway
St. Paul, MN 55116

James H. Johnson- Exec. Dir.
West. Lake Sup. Sanit. Dist.
27th Ave. West & the Waterfrnt
Duluth MN 55806

Jean Crampton
4330 Woodale Ave. So.
Minneapolis, MN 55424

Mike Robertson LCWM Direc.
B-46 State Capitol Bldg.
St. Paul, MN 55155

Dave Locey
MSD Recycle
2353 Rice St. North
Roseville, MN 55113

Duke Addicks LMC
League of Minnesota Cities
300 Hanover Bldg.
480 Cedar
St. Paul, MN 55101

Tom Todd
House Research
17 State Capitol Bldg.
St. Paul, MN 55155

Ronald Sundberg MEA
Minn. Energy Agcy. AM.
150 E. Kellogg Blvd. Center
St. Paul, MN 55101 Bldg.

Ken Hopke
Stearns County Planning Dept.
Stearns County Courthouse
St. Cloud, MN 56301

Dept. of Administration
Paul Cummings Administra.
50 Sherburn Ave. Building
St. Paul, MN 55155

Doug Wood Ramsey County
Division of Env. Health
934 Woodhill Dr.
Roseville, MN 55113

Rick Person-Dept. of Public
Solid Waste Division Works
600 City Hall Annex
25 West 4th St.
St. Paul, MN 55102

Robert Reid, P.E.
245 E. 6th St.
Suite 813
St. Paul, MN 55101

St. Paul & Sub. Haulers Assoc.
Barbara Kelly
1821 University Ave.
St. Paul, MN 55104

Bernie Leader
Polk County Solid Waste Off.
Polk County Courthouse
Crookston, MN 56716

David Fricke P O Box 246
Executive Secretary-
MN Asso. of Twnsp. Officers
St. Michael, MN 55376

Ted Shields
Mn. Assoc. of Com. & Ind.
Hanover Bldg. 480 Cedar
St. Paul, MN 55101

Metro Council-Environmental
Paul Smith Planner
300 Metro Sq. Bldg.
7th & Robert
St. Paul, MN 55101

State Planning Agency
Office of Local & Urban Affairs
Capitol Square Bldg.
St. Paul, MN 55155

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules of the State Waste Management Board Governing Operating Procedures	AFFIDAVIT OF MAILING Docket No. WMB-001-81

Robert Pulford, being first duly sworn deposes

That on the 10th day of August, 1981, at the City of Crystal, County of Hennepin, State of Minnesota, he served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the United States mail at said City of Crystal, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Waste Management Board for the purpose of receiving notice of the proposed adoption of rules by this board.

Robert Pulford

MADELINE HARRIS
NOTARY PUBLIC - MINNESOTA
CHISAGO COUNTY
My Commission Expires Sep. 17, 1985

Subscribed and sworn to before me this 10th day of August, 1981.

Madeline Harris

3/19/81
4/1/81

MINNESOTA
WASTE MANAGEMENT BOARD

DISTRIBUTION LIST FOR NOTIFICATION OF RULEMAKING

Mr. Joseph D. Bizzano, Jr.
Ms. JoAnn MCGuire
Northern States Power, Law Dept.
414 Nicollet Mall
Minneapolis, MN 55401

Dr. Roger V. Blomquist
Environmental Research Group, Inc.
4663 W. Chatsworth St.
St. Paul, MN 55112

Bernard L. Brommer
Executive Vice President
Minnesota AFL-CIO
175 Aurora Avenue
St. Paul, MN 55103

Charles A. Schaffer
Mn. Dept. of Economic Development
480 Cedar St.
St. Paul, MN 55101

R. A. Garvey
North Star Steel Company
P.O. Box 43189, 1678 Red Rock Rd.
St. Paul, MN 55164

Dr. Robert A. Reid
Manager, Corporate Environmental Health
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Legislative Research 3-M
3-M Center
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3316 W. 66th St.
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2412 University Ave. S.E.
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Forrest D. Nowlin
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1500 Northwestern Financial Center
7900 Xerxes Avenue Sp.
Minneapolis, MN 55431

Susan P. Robertson
Executive Director, LCRAR
Room 430 State Office Bldg.
St. Paul, MN 55155

R. G. Kirkham, Exec. Dir.
Minnesota Municipal Utilities Assoc.
P.O. Box B
10 Central Avenue
Buffalo, MN 55313

Richard P. Cox
Metro Inter-County Association
2305 Ford Parkway, Suite 103
St. Paul, MN 55116

Robert R. Distad
Ass't County Attorney
Dakota County Attorney's Office
Dakota County Gov't Center
1560 West Highway 55
Hastings, MN 55033

Dave Gurney
Environmental Engineer
Dakota County Hwy Dept.
Dakota County Government Center
1560 West Hwy 55
Hastings, MN 55033

Floyd J. Forsberg
City of St. Paul, Dept. of Public Works
600 City Hall Annex
St. Paul, MN 55102

Edward L. Kuhlney
Region 10, Southern MN RDC
301 Marguette Bank Bldg.
Rochester, MN 55901

Arlene Farver
Donohue & Associates, Inc.
7400 Metro Blvd. Suite 310
Minneapolis, MN 55435

Susan J. Strand
Legal Dept., Land O'Lakes
P.O. Box 116
Minneapolis, MN 55440

I.V.Fordyce
Manager Environmental Control
Am. Crystal Sugar Company
101 N. Third Street
Moorhead, MN 56560

Kevin C. Jones
George A. Hormel & Co.
P.O. Box 800
Austin, MN 55912

Norma Schumacher, Leg. Consultant
O'Connor & Hannan
38th Floor - IDS Tower
Minneapolis, MN 55402

G. Robert Johnson
4344 IDS Center
Minneapolis, MN 55402

Archie D. Chelseth
Manager Public Affairs
Potlatch Corporation
Box 510
Cloquet, MN 55720

Marc Hugunin
The Concept Companies, Inc.
One Paramount Plaza
7801 E. Bush Lake Rd.
Minneapolis, MN 55435

Bonnie M. Spencer
Federal-State Reports, Inc.
5203 Leesburg Pike, Suite 1201
Falls Church, Virginia 22041

Joseph S. Hensel
Rochester Public Utilities
506 First Ave. NE Box 6057
Rochester, MN 55901

General Mills, Inc.
ATTN: Dr. J. W. Haun-45W
P.O. Box 1113
Minneapolis, MN 55440

Mn. Dept. of Transportation
ATTN: Cheryl Heide
Rm 807, Transportation Bldg.
John Ireland Boulevard
St. Paul, MN 55155

Patricia Jensen
Governor's Office Rm 130
State Capitol
St. Paul, MN 55155

Craig Waldron
Region Nine Development Commission
410 S. 5th Street, P.O. Box 3367
Mankato, MN 56001

John A. Knapp
Hessian, McKasy & Soderberg
1500 Midwest Plaza Building
Minneapolis, MN 55402

Robert S. Burk
4344 IDS Center
Minneapolis, MN 55402

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the State Waste Management Board

Governing Establishment, Alteration, and Termination of Solid Waste Management Districts

---

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with and maintained by the State Waste Management Board for the purpose of receiving notice of the proposed adoption of rules by this Board is accurate and complete as of 9:00 a.m., this 10th day of August, 1981.

LeRoy C. Paddock

LEROY C. PADDOCK
Special Assistant
Attorney General

10.60-11.09%	ADJUSTED HOUSEHOLD INCOME	$0-$11,000	$11,001-$12,000	$12,001-$13,000	$13,001-$14,000	$14,001-$15,000
11.10-11.59%	ADJUSTED HOUSEHOLD INCOME	$0-$12,000	$12,001-$13,000	$13,001-$14,000	$14,001-$15,000	$15,001-$16,000
11.60-12.00%	ADJUSTED HOUSEHOLD INCOME	$0-13,000	$13,001-$14,000	$14,001-$15,000	$15,001-$16,000	$16,001-$17,000

Waste Management Board

Proposed Rules Governing the Establishment, Alteration, and Termination of Solid Waste Management Districts

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Waste Management Board proposes to adopt the above-entitled rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, § 15.0412, subd. 4(h) (1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, § 15.0412, subds. 4-4(f).

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to:

Waste Management Board
Attention: Robert Pulford
123 Thorson Building
7323 - 58th Avenue North
Crystal, Minnesota 55428
(612) 536-0816

Authority for the adoption of these rules is contained in Minnesota Statutes, § 115A.63, subd. 2. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Waste Management Board, Attention: Robert Pulford, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, Minnesota 55428, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Waste Management Board, Attention: Robert Pulford, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, Minnesota 55428.

The rules proposed for adoption relate to the following matters: (1) procedures for establishing and altering the powers and

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boundaries of a solid waste management district including the criteria by which the Waste Management Board will determine whether a district should be established or altered; (2) procedures for terminating a solid waste management district, including the criteria by which the Waste Management Board will determine whether a district should be terminated; (3) designation of resource recovery facilities; (4) extension of review periods; and (5) requests for additional information.

Copies of this notice and the proposed rules are available and may be obtained by contacting the Waste Management Board, Attention: Robert Pulford, 123 Thorson Building, 7323 - 58th Avenue North, Crystal, Minnesota 55428.

June 25, 1981

Robert G. Dunn, Chairman
Waste Management Board

Rules as Proposed (all new material)

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

6 MCAR § 8.102 Definitions. For the purposes of 6 MCAR §§ 8.101-8.107, the following terms have the meaning given them, unless the context requires otherwise.

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

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

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

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

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

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

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

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

6 MCAR § 8.103 Petition requirements and procedures for establishment or alteration of a district.

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

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

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

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

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

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

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

7. A description of the solid waste management improvements and facilities which are envisioned, together with a discussion of the impact that the improvements and facilities will have on the solid waste management problems identified by the petitioners;

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

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

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

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

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

B. Additional local review requirements.

1. The notice of the petition published in newspapers of general circulation in the district as required by Minn. Stat. § 115A.64, subd. 3 shall include a summary of purposes, goals, objectives and proposed powers of the district. The notice shall state that comments on the petition may be submitted and provide the name and address of a person to whom comments may be submitted. The notice shall be published at least 60 days but no more than 120 days before the petition is submitted to the board.

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

C. Petition review procedures.

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

2. Petitions involving a district which includes or extends into a metropolitan county shall, upon acceptance, be referred to the Metropolitan Council for review. If the Metropolitan Council does not approve the establishment or alteration of the district, the board shall dismiss the petition. The Metropolitan Council shall make its decision within 60 days after receiving the petition from the board.

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

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

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

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

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D. Waste Management Board decision.

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

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

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

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

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

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

f. Whether the articles of incorporation of the district provide the district with adequate solid waste management planning, administrative, and enforcement authority to properly and safely carry out the solid waste management programs which the district proposes to undertake.

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

6 MCAR § 8.104 Petition requirements and procedures for termination of a district.

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

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

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

3. An affidavit executed by the chairperson of the county boards of each petitioning county which states that the notice provisions of B. and Minn. Stat. § 115A.66, subd. 1; and

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

B. Additional local review requirements.

1. The notice of the petition published in newspapers of general circulation in the district pursuant to Minn. Stat. § 115A.66, subd. 1, shall include a summary of the petition to terminate, including a brief discussion of the potential positive and negative impacts of terminating the district. The notice shall also state that comments may be submitted on the petition and provide the name and address of a person to whom comments may be submitted. The notice shall be published at least 60 days but not more than 120 days before the petition is submitted to the board.

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

C. Termination review procedures.

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

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

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

2. If comments objecting to the termination of a district are included with the petition, the board shall request the Office

of Administrative Hearings to conduct a hearing on the petition. The hearing shall be held within 60 days after the board accepts a petition.

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

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

D. Waste Management Board decision.

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

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

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

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

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

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

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

2. The board shall not approve the termination of any district which has outstanding bonds or obligations issued or incurred pursuant to the authority granted in Minn. Stat. § 115A.71.

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

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

6 MCAR § 8.105 Designation of resource recovery facilities. Articles of incorporation which would permit a district to require that all or any portion of the solid waste generated within the district's boundaries be taken to a designated facility pursuant to Minn. Stat. § 115A.70 shall not be effective prior to July 1, 1982.

6 MCAR § 8.106 Extension of review periods. Review periods established by 6 MCAR §§ 8.101 to 8.104 other than those specifically required by Minn. Stat. §§ 115A.62-115A.72, may, upon request made prior to the expiration of the period, be extended by the board, if, based on the complexity or controversial nature of the petition, the requesting party is able to demonstrate the need for more time. If the time periods provided for review expire and no extension has been granted, the board may proceed in its review of the petition without the comments of the affected entity.

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

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ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Corrections

Adopted Rules Governing Juvenile Residential Facilities

The rules proposed and published at *State Register*, Volume 5, Number 37, pp. 1436–1454 (5 S.R. 307) are now adopted with the following changes.

Rules as Adopted

Table of Contents

11 MCAR § 2.551 Introduction.

A. ~~Section 1,~~ Minn. Stat. § 241.021, subd. ~~1~~ 1(1), as amended by Laws of 1978, ch. 778, provides that the Commissioner of Corrections promulgate rules establishing minimum standards for all correctional facilities throughout the state, whether public or private, established and operated for the detention and confinement of a person detained or confined therein according to law except to the extent that they are inspected or licensed by other state regulating agencies. The rules which follow are minimum requirements for juvenile residential facilities.

B. Annual inspections. Juvenile residential facilities required to be licensed by Minn. Stat. § 241.021, subd. 1(1), will be inspected annually.

C. Revocation of license for non-conformance. Revocation of license proceedings shall be done in accordance with ~~M.S.~~ Minn. Stat. § 241.021, 1, (4).

~~D. Conditional license. The Commissioner shall issue a conditional license for a period of one (1) year. The conditional license shall describe those conditions needed to achieve substantial compliance.~~

D. Issuance of license. A license shall be granted if the facility is in substantial conformance with rules stated herein, or is making satisfactory progress towards substantial conformance, and if the interests and well-being of children and youth received therein are protected. The license shall remain in force one (1) year unless sooner revoked.

G. Severability. The provisions of these rules are severable. ~~If any article, section, subsection, sentence, clause or phrase of these standards is for any reason held to be unconstitutional, contrary to statute, exceeding the authority of the Department of Corrections, or otherwise inoperative, such decision shall not affect the validity of the remaining portion of these rules.~~

11 MCAR § 2.554 Variance.

A. Variance of specific rule. The granting of a variance under this section shall not constitute a precedent for any other juvenile residential facility. The granting and denial of all variances shall be in writing and made within 30 days of the request for a variance. Such variance will be granted by the commissioner if, in the licensing procedure or enforcement of the standards in these rules: ~~The Commissioner shall grant a variance if, in the licensing procedure of enforcement of the standards, the Commissioner finds that:~~

1. To require a particular juvenile residential facility to strictly comply ~~comply strictly~~ with one or more of the provisions will result in undue hardship, or jeopardize the health, safety, security, detention, or well-being of the residents or facility staff;

2. The juvenile residential facility is otherwise in substantial conformity with the standards contained in these rules or making satisfactory progress toward substantial conformity; ~~compliance with said standards and their general purpose and intent.~~

3. Granting of the variance will not preclude the facility from making satisfactory progress toward substantial conformity with the rules;

4. The granting of the variance will not leave the interests and well-being of the residents unprotected; and

5. The facility will take such surrogate action as is necessary or available to comply with the general purpose of the standards to the fullest extent possible.

~~B. Emergency suspensions of rules. Nothing contained herein shall be construed to deny the power of any facility administrator to temporarily suspend any rule in the event of an emergency.~~

B. Emergencies. During an emergency, as defined in these rules and as declared by a facility administrator, those rules directly affected by the emergency and which, if not suspended, would adversely affect the health, security, safety, detention, or well-being of the persons detained or confined in juvenile residential facilities or the facility staff, shall be inoperative when an emergency is declared by the administrator.

~~1. Only rules directly affected by the emergency shall be suspended.~~

1. The facility administrator shall notify the Department of Corrections in writing within 72 hours of any emergency which resulted in the suspension of any rule.

~~2. The facility administrator shall notify the Department of Corrections in writing within seventy-two (72) hours of a suspension of any rule.~~

2. No suspension of rules because of an emergency declared by a facility administrator may exceed seven (7) days unless the administrator obtains the approval of the Commissioner of Corrections for a variance to the rules and such a variance is necessary for the protection of the health, security, safety, detention or well-being of the staff or the persons detained or confined in the institution where the emergency exists.

~~3. No suspension shall exceed seven (7) days without the approval of the Commissioner of Corrections.~~

11 MCAR § 2.559 Juvenile residential facility definitions.

D. "Child care worker" shall mean those staff ~~with~~ whose primary duties are the day-to-day ongoing supervision of residents.

F. "Controlled substance" shall mean a drug, substance or immediate precussor in Schedules I through V of Minn. Stat. § 152.02, ~~ch. 152.~~ (1980). The term shall not include distilled spirits, wine, malt beverages, intoxicating liquor or tobacco.

I. "Emergency" shall mean any significant incident or disruption of normal facility procedures, policies, routines or activities such as arising from fire, riot, natural disaster, suicide, ~~or~~ assault ~~on staff~~ or medical emergency.

L. "Inspection" shall mean an on-site assessment of existing conditions ~~and their relationship to meeting rules~~ made to determine the facility's compliance with these rules.

T. "Undue hardship" shall mean the financial costs are not warranted when weighed against the benefits derived.

~~T.~~ U. "Variance" shall mean the waiver of a specific rule for a specific period of time.

11 MCAR § 2.567 B.2. All child care workers shall be ~~(18) eighteen a minimum of~~ 18 (eighteen) years of age or older.

11 MCAR § 2.567 D.2.h. (1) During working hours, the ratio of staff to residents shall be one (1) staff to ~~ten (10)~~ twelve (12) residents. Staff who are not involved with the youth in direct service shall not be considered in this ratio. (Mandatory)

11 MCAR § 2.567 D.2. ~~i. Education/vocational staff and programs shall be provided consistent with Minnesota Department of Education Rules 5 MCAR § 1.0120.~~

i. There shall be a comprehensive and continuous education program for residents which shall be certified by the Minnesota Department of Education and includes at a minimum: (Mandatory)

(1) Developmental education

(2) Remedial education

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Adoption of Rules Governing the Establishment, Alteration and Termination of Solid Waste Management Districts	Docket No. WMB-002-81 FINDINGS OF FACT AND CONCLUSIONS

Notice of the proposed adoption of the above-referenced rules was published in the State Register on August 10, 1981. Notice of the proposed adoption of rules was also served upon all persons, associations, and other interested groups registered with the State Waste Management Board for that purpose.

After affording interested persons an opportunity to comment, having considered all of the evidence adduced upon the records, files, and proceedings, herein, the Waste Management Board makes the following:

FINDINGS OF FACT

1. By an Order dated June 25, 1981, the Chairman of the Waste Management Board directed that a Notice of Intent to Adopt Rules Without Public Hearing in the above-captioned matter be given to all persons who had registered their names with the Board and be published in the State Register.

2. The Notice of Intent to Adopt Rules Without Public Hearing was published in the State Register on August 10, 1981. See 6 S.R. 161.

3. The Notice of Intent to Adopt Rules Without Public Hearing was sent to all persons who had registered their names with the Board.

4. Comments were received from the Metropolitan Council and the Minnesota Waste Association. There were no requests for a public hearing.

5. The Metropolitan Council, through Charles Weaver, Chairman, suggested that the rules require a petition which involved a metropolitan county to indicate the proposed district would conform with the Councils' Solid Waste Management Plan. This change was not made since Section 115A.63, subd. 3 of the Waste Management Act prohibits the Board from establishing a district without the approval of the Council. In determining whether a proposed district should be approved, the Council will be able to consider the effect on its Solid Waste Management Plan.

6. The Metropolitan Council also suggested that the rules explicitly state that "the articles of incorporation of the district must have the same procedural and substantive responsibilities, duties, and relationship to the Metropolitan agencies as a metropolitan county." Section 115A.63, subd. 3 of the Waste Management Act specifically requires that the ariticles of incorporation include the requested responsibilities, duties and relationships. Thus, it is not necessary to include the proposed language in the rules.

7. Sections 8.103.C.2. (establishment and alteration) and 8.104.C.4. of the proposed rules provide for a 60-day period for review by the Metropolitan Council. The Council has stated in its comments that 60 days is not sufficient time to conduct its review. The review period for the Council is therefore extended to 90 days.

8. The Minnesota Waste Association in its comments suggested that separate notice of the establishment, alteration or termination of a district be provided to solid waste haulers, landfill operators, and other interested parties in the area affected by the district. Since the Board's intent is to ensure adequate local review and comment, the language was added:

> At least 60 days before the petitioners submit the petition to the Board, the petitioners shall send the notice as published to the licensed solid waste haulers, permitted landfill operators and other interested parties, of the district's intent to submit a petition. Failure to notify all solid waste haulers, landfill operators or interested parties shall not invalidate the petition.

9. The Minnesota Waste Association also suggested that the language in Section 8.105 of the rules (Designation of Resource Recovery Facilities) be clarified to ensure that the Board would not approve designation (that is, flow control) without reviewing the district's need for flow control when district's are authorized to request flow control on July 1, 1982. The intent of Section 8.105 was to consider the request for flow control authority as a substantial change in a district's authority requiring Board review and authorization. To make this intent absolutely clear the following language was added to Section 8.105:

> Districts which are established prior to July 1, 1982, may request authority to designate facilities on or after July 1, 1982. The request to designate facilities shall be considered a substantial change in the district's powers requiring a petition for alteration of the district. After July 1, 1982, review of articles of incorporation providing for designation of facilities shall be reviewed together with the review of the remainder of the petition for establishment of a district.

10. Section 8.103A.7 of the rules requires that the petition discuss the impact that the improvements and facilities of the proposed district will have upon the solid waste management problems of the area. The Minnesota Waste Association suggested that it is also important to consider the impact on the existing solid waste management system. Since a discussion of the impact on the existing solid waste management system might be useful to the Board in determining whether a district

should be established or altered, Section 8.103A.7 was changed by adding the following language at the end of the sentence: "and on the existing solid waste management system."

11. Section 8.104D. of the rules includes several considerations which the Board should take into account when making its determination on whether to terminate a district. The Minnesota Waste Association suggested that the Board also consider the impact of the termination on the solid waste management system serving the district. Since the effect of the management system is a logical factor in the determination to terminate a district, Section 8.104D.1 was changed by adding an additional factor as follows:

> The impact the termination would have on the solid waste management system serving the district.

CONCLUSIONS

1. The modifications in the rules from the version published in the State Register on August 10, 1981, do not result in a substantial change in the proposed language.

2. The rules as adopted, including the modifications in the proposed language, are needed and reasonable.

3. The Waste Management Board has complied with the rulemaking procedures for non-controversial rulemaking set out in Minn. Stat. §§ 15.0412, subds. 4-14.

ROBERT G. DUNN
Chairman
Waste Management Board

Dated: October 22, 1981

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Rules of the State Waste Management Board Governing the Establishment, Alteration, and Termination of Solid Waste Management Districts	Docket No. WMB-002-81 CERTIFICATE OF BOARD'S RESOLUTION ADOPTING RULES

I, Robert G. Dunn, do hereby certify that I am a member and the Chairman of the Waste Management Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Waste Management Board, duly and properly called and held on the 22nd day of October, 1981, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> RESOLVED, that the rules relating to the establishment, alteration and termination of solid waste management districts be and they hereby are approved and adopted pursuant to authority vested in us by Minnesota Statutes Section 115A.63, subd. 2, and that Robert G. Dunn, the Chairman of the Waste Management Board, be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 22nd day of October, 1981.

Robert G. Dunn
(Officer of the Board)

Louise Kuderling
(Attest by one other Board member)

STATE OF MINNESOTA
Waste Management Board

In the Matter of Proposed
Rules Relating to Establishment,
Termination and Alteration of
Solid Waste Management Districts

Statement of Need
and Reasonableness

The Waste Management Board (hereinafter "Board"), pursuant to Minnesota Stat.15.0412, subd.4 (1978) hereby presents facts establishing the need for and reasonableness of the proposed rule designated above.

Minn. Stat.115A.63, subd.2 (1980) authorizes the Waste Management Board, "to establish waste districts as public corporations and political subdivisions of the state, define the powers of such districts in accordance with sections 115A.62 to 115A.72, define and alter the boundaries of the districts as provided in section 115A.64, and terminate districts as provided in section 115A.66."

The waste districts established by Minn. Stat.115A.63, subd.2 (1980) are needed to, "manage properly the solid waste generated in the state and to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens; that this need cannot always be met solely by the activities of individual political subdivisions or by agreements among subdivisions."

6MCAR S 8.101 to 6MCAR 8.107 are needed to provide the Waste Management Board with administrative and decision making procedures to implement Minn. Stat. 115A.62 to 115A.66.

6 MCAR S 8.101 Establishment termination and alteration of solid waste management districts.

This section cites the statutory authority for this rule and indicates the areas the rule addresses as required by the statutes:

(1) Petition requirements and procedures for establishment or alteration of a district;

(2) Petition requirements and procedures for termination of a district.

6 MCAR S 8.102 Definitions

The definitions in this section provide common terminology and meaning for terms used in these rules.

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

A. Petition Contents

The petition is composed of those items of information required to establish or alter a solid waste management district as identified by these rules and Minn. Stat. 115A.62 through 115A.66. This information is necessary for the Waste Management Board to perform its review of the petition. The specific justification for each of the items of information specified in 6 MCAR S 8.103 is as follows:

1. The name of the proposed solid waste management districts is needed for identification.

2. An accurate description of the area and the political subdividions involved are required by Minn. Stat. 115A.64 subd.2 and are needed by the WMB in its review and assessment of the petition.

3. A map is needed in sufficient scale because of the importance of

accurately identifying the boundaries of the proposed district. The practical definition of "sufficient scale" will be a map which identifies property owners. Depending upon the nature of the district boundaries proposed, property owners could be determined from maps of various scales. It is proposed this be determined by the Waste Management Board upon submission of a petition.

4. A resolution of support from each of the petitioning counties is required by Minn. Stat. 115A.64 subd.2. It is needed to identify the support and the commitment of the petitioning counties contained within the proposed boundaries of the district.

5. The statement of the purposes is needed to identify why the political subdivisions seek to establish a district by defining the problems each of the subdivisions face and how a waste management district will solve those problems.

6. In an effort to summarize and clarify for the petitioners and review bodies (public, MPCA, WMB, etc.) the petitioners must, through this statement, identify their overall intent. Statements of goals and objectives are used to focus debate, to focus the reasons for proposing a district and to serve as guidelines for further specific actions on the part of the proposed district. This is viewed as a logical step in defining the direction of the proposed district.

7. A description of future solid waste management improvements is needed to assess the impact those improvements will have on waste management problems identified in the petition. In addition a discussion of how those improvements will impact the existing solid waste management system is necessary to allow the Waste Management Board to better assess questions of public interest.

8. The articles of incorporation are required by Minn. Stat. 115A.64 subd. 2. A description of the proposed powers is necessary to accurately identify the proposed powers and duties of the district. These powers and duties are reflective of problems and goals identified in the petition and will vary from district to district. In that a district can assume only those responsibilities approved by the Waste Management Board an accurate description of each is necessary. In addition the identification of proposed powers assures adequate local debate of the overall goals of the proposed district.

9. A resolution regarding joint powers is required by Minn. Stat. 115A.63 subd. 3. In addition, the petitioners are required by these rules to address specifically why joint powers agreements are not sufficient in terms of legal, planning, management, administrative or implementation authorities to achieve their purposes. This requirement attempts to force the petitioners to more thoroughly research and discuss the options provided by joint powers agreements. This requirement discourages petitioners from routinely dismissing joint powers as an option without adequate research. It is the intent of Minn. Stat. S 115A.63 subd. 3 that joint powers agreements should be viewed as the preferable structure over waste management districts providing joint powers agreements are adequate to accomplish the stated purposes.

10. The local review requirements referred to in the rules are required by Minn. Stat. 115A.64 subd. 2. The requirements of 6 MCAR 8.103B (additional local review requirements) as referenced here are discussed elsewhere in this statement. The affidavit is required by these rules to assure the Waste Management Board that the petition to establish or alter a district has been adequately reviewed and debated at the local level.

11. Minn. Stat. 115A.63 subd. 3 requires completion and submission of a copy of the proposed district's comprehensive solid waste management plan. This plan must conform to the requirements of Minn. Stat. 115A.46.

12. A statement regarding the relationship between the district and all affected counties is needed because counties are given solid waste planning and enforcement responsibilities by state statute and state agency rules. The establishment of a district may confuse local solid waste management and has the potential to be viewed by the petitioning counties as the path of least resistance. This statement requires the district and each petitioning county board to agree to the solid waste management, planning, administration and enforcement responsibilities surrounding solid waste management in the proposed district. This will serve to avoid situations where a county board assumed the district was to perform a certain function when in fact it had no intention of doing so. This statement will also assist the MPCA in performing its review of petitions as required by Minn. Stat. 115A.64 subd. 4. Specifically, this statement will assist MPCA in determining if the district's proposed powers are adequate to achieve their purposes and consistent with the agency's regulatory program.

B. Additional Local Review Requirements

This section specifies the procedures for local public notification of the petition for a proposed district and further specifies the time frames required to allow for local public review and comment.

1. Publication of the petition in newspapers of general circulation in the district is required by Minn. Stat. 115A.64 subd. 3 and is needed to assure the WMB that the public notification criteria is met. The date of publication must also be sufficiently in advance of petition submission

to the Board to ensure that public comments on the petition are received and attached to the petition when it is submitted to the Board. In addition, components of the solid waste industry in a proposed district are identified to receive special notification as they are perceived as being significantly impacted by the formation of a district.

2. The Metropolitan Council will receive a copy of the petition in the event the petition involves a district which includes or extends into a metropolitan county because of the Metropolitan Council's responsibility to coordinate solid waste planning in the seven-county Metropolitan Area. To ensure adequate coordination of planning it is required the petitioners seek Metropolitan Council comments before the petition is submitted to the WMB.

C. Petition Review Procedures

The petition review procedures specify the process through which each petition will be reviewed. The justification for each of the steps is as follows.

1. Complete information is needed for an adequate assessment of the petition. The information supplied with the petition must meet the requirements set out in A and Minn. Stat. 115A.62-115A.66 because any lack of information could cause misunderstanding, incorrect handling and confusion. For these reasons incomplete petitions will be returned. Once a petition is received with complete information it will be considered for review.

2. Minn. Stat. 115A.63 subd. 3 requires approval by the Metropolitan Council of petitions affecting a Metropolitan County. The Metropolitan Council is given 90 days to complete its review. This period allows for committee review and hearing within the Council's structure.

3. In the event objections are raised to the petition, a public hearing is required by Minn. Stat. S 115A.64 subd. 4 and is needed within a reasonable time after the Board has accepted the petition. This procedure is necessary to ensure the Waste Management Board is aware of any objections to the petition before a final decision is made.

4. Upon acceptance by the Board it is necessary that the petition be reviewed by an appropriate group of professional and technical personnel. In making their decision the Waste Management Board will then have the benefit of professional comments.

5. Definite time frames are needed within which the professional/technical personnel will be required to respond to each accepted petition. In addition, time constraints are necessary to ensure an efficient and orderly review process.

6. A review period is necessary to ensure timely reports from the Pollution Control Agency. In addition, in that the Pollution Control Agency is charged with permitting of solid waste management facilities and reviewing the solid waste plans of counties, it is required by these rules that the agency comment on the adequacy of the powers of the proposed district in terms of overall solid waste management and coordination with affected counties.

D. Waste Management Board Decision

This section is necessary to specify the decision-making procedures of the Waste Management Board regarding petition approval.

1. A review period is required to ensure timely decisions regarding a petition. In addition public interest questions are identified which will form the basis of the Waste Management Board's decision. These questions are embodied in the intent of Minn. Stat. 115A.62.

a. this issue in the decision-making process is identified to determine to what extent the proposed district expects to reduce landfill disposal by utilizing proper management techniques. Some techniques that might be employed to reduce landfill disposal are separation and recovery techniques for either energy or materials recovery.

b. Minn. Stat. 115A.63 subd. d. states that, "No waste district shall be established wholly within one county."

c. This issue is identified because of the requirements of Minn. Stat. 115A.62 which states that the development of integrated and coordinated solid waste management systems is needed "to conserve and protect the natural resources in the state."

d. this issue is identified to determine to what extent the proposed district could employ resource recovery techniques, thereby reducing the need for landfill disposal.

e. this issue is needed to analyze and evaluate the socio-economic aspects of the proposed district.

f. this issue is identified because articles of incorporation must contain the appropriate authorizations which will enable the proposed district to carry out the programs it proposes to undertake. If the authorizations contained in the articles of incorporation are inadequate, efforts the district makes to properly and safely manage solid waste may become self-defeating. On the other hand, safeguards must be established to ensure that the authority of the proposed district is not "over-adequate."

2. Notification to the petitioners by certified mail is required to ensure that no question exists regarding the Waste Management Board's decision. In addition, a contested case hearing as identified by these rules is required by Minn. Stat. S 115A.64 subd. 4. In addition, formal notification to the Pollution Control Agency is required by these rules because of the agency's solid waste management responsibilities and regulatory programs.

6 MCAR S8.104 Petition Requirements and Procedures for Termination of a District.

A. Petition Contents

The petition comprises those items of information required to terminate a district as identified by these rules and Minn. Stat. 115A.66. This information is necessary for the Board to perform its review of the petition. The specific justification for each of the items of information specified in 6 MCAR S8.104 is as follows.

1. This statement is needed to reexamine the issues addressed in establishing a district and re-addressed in a proposal to terminate a district. The statement is necessary to set forth the reasons why the district is no longer in the public interest.

2. The termination of a district may create a void in the management of solid waste. This statement is needed to specify how the solid waste stream would be managed in the absence of the district. This is necessary in that Minn. Stat. 115A.69 subd. 7 allows districts the power to operate solid waste facilities and services.

3. This affadavit is required by these rules to ensure that the petitioners to terminate a district have provided for adequate local notice and debate.

4. These rules require a copy of all written comments received by the petitioners be sent to the Waste Management Board to ensure the Board is aware of all stated comments regarding the petition before a Board decision is made.

B. Additional Local Review Requirements

This section specifies the procedures and content for local public notification of the petition and further specifies the time frames required to allow for local public review and comment.

1. This statement is necessary because of the effect the proposed petition will have within the boundaries of the district. It is needed to meet the requirements of Minn. Stat. 115A.66, subd. 1 which states that the public is to be informed, that the impacts of district termination are highlighted and that an adequate time frame is allowed for public review and comment. In addition, these rules require specific notification of termination to components of the affected solid waste industry and interested groups for comment.

2. Regional development commissions and metropolitan council are given certain multi-county planning responsibilities. Because of these responsibilities these rules require the petitioners to notify these agencies for comments.

C. Termination Review Procedures

The termination review procedures specifies the process by which each petition will be reviewed. The justification for each of the procedural steps is as follows.

1. This statement is needed because a petition cannot be accepted for review if it is incomplete.

a. this is needed to emphasize the necessity for a fully-documented

petition and to indicate the procedure for handling petitions containing deficiencies.

b. this is needed as a requirement because corrected deficiencies may result in significant changes from the original petition.

2. Minn. Stat. 115A.66 subd. 3 requires a hearing if objections are raised to the petition. A time frame is identified to ensure timely review of the petition.

3. The Board's professional and technical councils, and the Pollution Control Agency are required by these rules to review petitions to terminate. This will provide the Waste Management Board with recommendations from solid waste management professional and technical bodies. The metropolitan council is required to review and comment because of the council's planning responsibilities in the metropolitan area.

4. Establishing time frames for petition response by the professional/technical councils and the other affected agencies is needed to maintain an effective and efficient review procedure.

D. Waste Management Board Decision

This section is necessary to establish time frames within which the Board will act on the petition and also specifies the issues that are considered in the decision-making process.

1. A decision on a petition involves many issues each of which needs to be considered in determining whether or not the termination of a district serves the public interest. Specific justification for each of the issues is as follows:

a. this issue is identified to determine whether or not the alternative to the district proposed in the petition will improve and/or reduce the need for solid waste landfills.

b. this issue is identified to assess existing coordinated solid waste services and evaluate the alternative proposed in the petition and subsequently determine whether the alternative proposed will improve solid waste management services within the district.

c. this issue is identified because of the requirements set out in 6 MCAR S8.104 A.1 and Minn. Stat. 115A.62 which states that the development of integrated and coordinated solid waste management systems is needed "to conserve and protect the natural resources in the state."

d. this issue is identified to determine if the alternative proposed in the petition will increase the liklihood of resource recovery techniques thereby reducing the need for landfill disposal.

e. this issue is identified to analyze the socio-economic factors involved and determine whether the proposal will provide benefits greater than the existing district's benefits.

f. this issue is identified to review and analyze the purposes for which the district was established to determine the current validity of those porposes.

2. A review of the district's financial position is needed because districts have the legal authority to incur debt. Outstanding liabilities of the district must be considered in the review of petitions to terminate.

3. Establishing procedures and time frames for petition denial and contested case hearings are necessary to inform the petitioner(s) of these procedures and also to establish an orderly and expeditious review process. In addition, contested case hearings are required in Minn. Stat. 115A.66 subd. 3.

4. In the event the public interest is best served by district termination, the Board's decision should be transmitted to each affected local unit of government and state agencies which have an interest in solid waste management.

6 MCAR S8. 105 Designation of Resource Recovery Facilities.

Minn. Stat. 115.41 states that designation and required use of resource recovery facilities shall not be effective prior to 7/1/82. In addition, these rules further clarify how the Waste Management Board will react to requests for designation of facilities from solid waste districts.

6 MCAR S8.106 Extension of Review Periods.

Time extension provisions are needed because it is recognized that in some cases the established review periods may not be adequate.

6 MCAR S8.107 Additional Information.

Additional information may be needed because information unique to a specific petition and not covered under 6 MCAR SS8.101-104 or Minn. Stat. SS 115A.62-115A.66 may be important in deciding whether that petition should be granted or denied.

Metropolitan Council
OF THE TWIN CITIES AREA

300 Metro Square Building, 7th Street and Robert Street, Saint Paul, Minnesota 55101 Area 612, 291-6359

RECEIVED
SEP 2 1981
WASTE MANAGEMENT BOARD

August 31, 1981

Mr. Robert G. Dunn, Chairman
Minnesota Waste Management Board
123 Thorson Building
7323 - 58th Avenue North
Crystal, Minnesota 55428

RE: Proposed Rules Governing Solid Waste Management Districts

Dear Bob:

The Metropolitan Council has reviewed the Waste Management Board's proposed rules for solid waste districts and would like to offer the following comments.

1. 6 MCAR 8.103, Petition Contents. For proposed districts wholly within or extending into the Metropolitan Area, the contents should show evidence of conformance with the Council's Solid Waste Policy Plan.

2. 6 MCAR 8.103, Petition Contents. For proposed districts wholly within or extending into the Metropolitan Area, the articles of incorporation of the district must have the same procedural and substantive responsibilities, duties, and relationship to the metropolitan agencies as a metropolitan county. This should be a part of the petition content requirements.

3. 6 MCAR 8.103 Petition Review Procedures. The Council's 60-day review period should be extended to at least 90 days. A 60-day review period is much too short given the magnitude of a district proposal and the Council's public hearing requirements, etc.

If there are any questions regarding the Council's comments, please contact Ray Thron (291-6409) or Paul Smith (291-6408) of the staff.

Sincerely,

Charles Weaver
Chairman

CRW:sje

cc: Robert Pulford, Waste Management Board

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD
123 THORSON BUILDING
7323 58TH AVENUE NORTH
CRYSTAL, MINNESOTA 55428

ROBERT G. DUNN
CHAIRMAN
TELEPHONE:
METRO AREA (612) 536-0816
OUTSTATE 1-800-652-9747

November 2, 1981

Ms. Barbara Kelley
Minnesota Waste Association
1821 University Avenue
St. Paul, Minnesota 55104

Dear Ms. Kelley:

The Minnesota Waste Management Board has reviewed your comments received 9/8/81 concerning the rules to establish, alter or terminate solid waste management districts. Listed below are those comments:

1. The rules should clarify designation of facilities and how the Waste Management Board will react to articles of incorporation which request designation as part of a district's powers.

2. The rules should require that the petitioners notify the solid waste industry within the district of their intent to establish, alter or terminate a district.

3. The rules should require the Waste Management Board to consider the impacts that district termination would have on the solid waste management system serving that district.

4. The rules should require the petition to contain a discussion of the impacts that solid waste management facilities proposed by the district will have on the existing solid waste management system.

Thank you for your time and comments concerning the proposed rules. As you know, the Waste Management Board has taken action to incorporate all of these comments into the solid waste district rules.

Sincerely,

Robert Pulford

Robert Pulford
Solid Waste Coordinator

RP:js

BOARD MEMBERS
DISTRICT 1 LAURENCE HUNTER, Hastings
DISTRICT 2 KEITH KUITERS, Clarks Grove
DISTRICT 3 WILLIAM KIRCHNER, Richfield
DISTRICT 4 MILTON KNOLL, JR., White Bear Lake
DISTRICT 5 LOUISE KUDERLING, Minneapolis
DISTRICT 6 THOMAS RENNER, Elk River
DISTRICT 7 ALLAN EIDE, Hitterdal
DISTRICT 8 DAVID HARTLEY, Hermantown

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT Waste Management Board

Office Memorandum

TO : Waste Management Board Members

DATE: September 24, 1981

FROM : Bob Pulford

PHONE: 536-0816

SUBJECT: SOLID WASTE DISTRICT RULES

As you'll recall the WMB has the responsibility to establish rules by which the Board will review and approve or reject petitions from counties to form Solid Waste Management Districts. The legislative intent of these Districts is to improve solid waste management and resource recovery in Minnesota.

The local decision to petition the WMB to form such a district is voluntary and applies to both metro and non-metro counties. The basic issues of Solid Waste Districts will revolve around questions of public interest. The intent of the WMB's rules governing this petition review process is to ensure an open and adequate debate as to the public interest.

At the May 28, 1981 meeting the WMB adopted District Rules for publication in the State Register. The state's rule-making process allowed for interested groups/citizens to comment to the WMB on those rules up to September 9, 1981. In addition to the rules appearing in the State Register approximately individuals received the WMB's notice of these rules for comment. As a result the following comments have been received, followed by the staff recommendation.

CHARLES WEAVER, CHAIRMAN, METROPOLITAN COUNCIL

Comment: The rules should require the petitioners to "show evidence of conformance with the Council's Solid Waste Policy Plan."

Recommendation: It is recommended that no rule changes be made. The Act states that the Metropolitan Council must approve the petition before the WMB can act on the petition. The Council's review will be based on the consistency or inconsistency of the petition with the Council's plans.

Comment: The rules should state that..."the article of incorporation of the district must have the same procedural and substantive responsibilities, duties, and relationship to the metropolitan agencies as a metropolitan county.

Recommendation: It is recommended that no rule changes be made. This issue is identified in the legislation and should not be repeated in rules.

Comment: The rules should allow the Metropolitan Council 90 days for petition review (the rules provide 60 days).

Recommendation: The rules can be altered to allow the Council a 90-day review period.

BARBARA KELLY, EXECUTIVE DIRECTOR, MINNESOTA WASTE HAULERS ASSOCIATION

Comment: The rules should be changed to provide for specific notice to the solid waste haulers of a petition to establish or terminate a district.

Recommendation: It is recommended that no changes be made. The Solid Waste Management Advisory Council had discussed this issue at several meetings. They, as a group, believed notification to special interest groups was not necessary.

Comment: The rules should be altered as follows:
In determining whether the termination of a district is in the public interest the board shall consider among other things the impact the termination would have on the solid waste management system serving the district.

Recommendation: It is recommended the rules be changed to reflect the specific language underlined above. This change would be a clarification with no change in interpretation or intent.

It is recommended the WMB adopt the changes as identified.

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Rules of the State Waste Management Board Governing the Establishment, Alteration, and Termination of Solid Waste Management Districts	STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General LeRoy C. Paddock, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

LeRoy C. Paddock

Special Assistant
Attorney General

Dated: November 12, 1981
~~October 22~~, 1981

SF-00006-01

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ATTORNEY GENERAL

TO : Judith Wehrwein
Legal Assistant

DATE: 12/8/81

FROM : Alan W. Kowalchyk
Special Assistant
Attorney General

PHONE: 296-7729

SUBJECT: Rules of the State Waste Management Board Governing Establishment, Alteration, and Termination of Solid Waste Management Districts

Enclosed is the information you requested regarding the above-referenced rules. If you need any further information feel free to contact me.

AWK:ci
Enclosure

RECEIVED
DEC 11 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

ATTORNEY GENERAL

LEE PADDOCK
Special Assistant Attorney General
Waste Management Board

11/27/81

JUDITH V. WEHRWEIN
Legal Assistant
530 State Office Building

297-3471

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE WASTE MANAGEMENT BOARD GOVERNING ESTABLISHMENT, ALTERATION, AND TERMINATION OF SOLID WASTE MANAGEMENT DISTRICTS

The above-referenced rules submitted to this office for review pursuant to Minn. Stat. § 15.0412, Subd. 4(h), are hereby returned to you because of incomplete documentation.

Attorney General rules 1 MCAR § 1.203A. and I. require, respectively, submission of the Rules as Adopted and of a Mailing List Certificate. Neither document was included in the submission.

In addition, please be advised that Minn. Stat. § 15.0412, Subd. 10, requires submission of the Rules as Adopted to the Revisor of Statutes, for approval as to form, at the same time as submission to the Attorney General. It does not appear this was done.

Please feel free to contact me if you have any questions regarding this matter.

JVW:sll

Encs.

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

WARREN SPANNAUS
ATTORNEY GENERAL

TELEPHONE
(612) 296-6196

November 9, 1981

Mr. Jerry Anderson
Administration-Finance Division
Room G25, Admin. Bldg.
50 Sherburne Avenue
St. Paul, MN 55155

Dear Mr. Anderson:

Enclosed for review are four copies of the Rules Governing Establishment, Termination, and Alteration of Solid Waste Management Districts and associated material.

Sincerely,

LeRoy C. Paddock/cd

LEROY C. PADDOCK
Special Assistant
Attorney General

Room 431
1935 West County Road B2
Roseville, MN 55113
(612) 296-7729

LCP:ci
Enclosure

AN EQUAL OPPORTUNITY EMPLOYER