

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 subdivisions 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 affidavit 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 likelihood 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 purposes.
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.