

CHAPTER 7082
MINNESOTA POLLUTION CONTROL AGENCY
LOCAL ISTS PROGRAMS

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7082.0010 PURPOSE AND INTENT.

Subpart 1. **Effect.** The proper location, design, installation, use, and maintenance of subsurface sewage treatment systems (SSTS) protects the public health, safety, and general welfare by the discharge of adequately treated sewage to groundwater.

Subp. 2. **Authority.** In accordance with the authority granted in Minnesota Statutes, chapters 103F, 103G, 115, and 116, the Pollution Control Agency provides the minimum standards for local SSTS ordinances and administrative programs. The agency offers these standards to reasonably ensure proper permitting, inspection, and operation of SSTS.

Subp. 3. **Local ordinances; construction.** Local ordinances referencing individual sewage treatment rules issued by the agency shall be construed to mean rules governing both individual subsurface sewage treatment systems and mid-sized subsurface sewage treatment systems, as defined in parts 7080.1100, subpart 41, and 7081.0020, subpart 4.

Statutory Authority: *MS s 115.03; 115.55*

History: *32 SR 1413*

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7082.0020 DEFINITIONS.

Subpart 1. **Certain terms.** In addition to the definitions in chapters 7080, 7081, and 7083 and Minnesota Statutes, section 115.55, which are incorporated by reference, the terms used in this chapter have the meanings given them. For purposes of these standards, certain terms or words are interpreted as follows: the words "shall" and "must" are mandatory and the word "may" is permissive.

Subp. 2. **Permittee.** "Permittee" means a person who is named on a permit issued pursuant to local ordinance.

Statutory Authority: *MS s 115.03; 115.55*

History: *32 SR 1413*

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7082.0040 REGULATORY ADMINISTRATION RESPONSIBILITY.

Subpart 1. **Agency responsibilities.** The agency is responsible for providing the framework for local SSTS ordinances along with providing minimum administrative procedures or strategies to ensure effective permitting and inspection of SSTS. The agency is also responsible for reviewing local ordinances to ensure adequate protection of public health and the environment and that local administration is sufficient to ensure compliance.

Subp. 2. **County responsibilities.**

A. All counties must adopt and implement SSTS ordinances in compliance with chapters 7080 and 7081 that also comply with this chapter. Ordinances must apply to all land area within the county, except in towns and cities that have adopted ordinances that are in conformance with the county ordinance and this chapter. All counties with SSTS ordinances must permit and inspect SSTS within cities and townships that do not administer an SSTS ordinance that complies with these rules.

B. Counties must send written invitations to all cities and townships within the county soliciting their input and involvement with the county-coordinated process of establishing countywide SSTS ordinance standards.

Subp. 3. **City and township responsibilities.** Cities and townships with SSTS ordinances must effectively administer and enforce an ordinance that conforms with this chapter and is administratively and technically as strict as the county ordinance, as determined by the agency. Cities and townships are authorized to adopt conventional programs as described in part 7082.0050, subpart 3, even if the county has adopted a performance program.

Subp. 4. **Required fiscal and physical capacity for local programs.** All local governments that administer SSTS programs must have:

A. adequate personnel to properly conduct SSTS technical and administrative functions. All local governments that administer SSTS programs must have:

(1) at least one certified inspector as described in part 7083.1020, subpart 1, item C, who is employed by the local unit of government or a contracted licensed SSTS inspection business. Multiple local units of government are allowed to contract for services with the same certified inspector; and

(2) at least one person who is employed by the local unit of government who has received accredited training on administration of local SSTS programs; and

B. an enforceable ordinance that meets the requirements of this chapter.

Subp. 5. **Reporting requirements for all local programs.** Local units of government that administer SSTS programs must provide an annual report to the commissioner. The report must be submitted to the commissioner no later than February 1 for the previous calendar year. The report must include:

A. the name and address of the program administrator, all qualified employees, and contracted licensed businesses authorized to perform services on behalf of the local unit of government;

B. the number of permits issued in the reporting year in the following categories:

Total SSTS by flow permitted in year:

1-2,499	2,500-4,999	5,000-10,000
gallons	gallons	gallons
per day	per day	per day

New SSTS construction

Replacement SSTS

Total SSTS by type permitted in year:

	Residential	Other establishments
Type I		
Type II		
Type III		
Type IV		
Type V		

C. the total number of systems serving full-time residences and seasonal residences, the total number of cluster systems, and the total number of other establishments in the jurisdiction;

D. the estimated percentage of existing SSTS in compliance within the local government's jurisdictional boundaries and how the estimate was developed;

E. the number of septic system tanks installed by each licensed installation business or homeowner;

F. the number of systems regulated under an operating permit;

G. for counties, the names of cities and townships that have local ordinances within the county; and

H. a narrative description of problem areas in local SSTS administration.

Statutory Authority: *MS s 115.03; 115.55*

History: *32 SR 1413; 35 SR 1353; 38 SR 1001*

Published Electronically: *January 22, 2014*

7082.0050 GENERAL REQUIREMENTS FOR LOCAL ORDINANCES.

Subpart 1. Adoption of local ordinances.

A. The regulation of SSTS by local governments must be implemented through an ordinance based on the requirements of this chapter, except that counties are allowed to choose between options described in subpart 3 or 4 and are allowed to adopt alternative local standards according to subpart 5. Cities and towns must adopt the regulatory option used by the county and must be as strict as the county ordinance. Cities and townships are authorized to adopt conventional programs as described in subpart 3 even if the county has adopted a performance program.

B. County ordinances that administer SSTS programs must be updated to the standards of chapters 7080 to 7083 within 24 months of February 4, 2008. City and township ordinances must be updated no more than 12 months after adoption of the county ordinance in which the city or township is located and must comply with the standards of chapters 7080 to 7083 and must be as strict as the applicable county ordinance.

Subp. 2. Review by agency.

A. A copy of all local ordinances regulating SSTS and all future ordinances or amendments must be submitted to the commissioner 30 days prior to adoption, accompanied by a completed ordinance review checklist on a form provided by the commissioner.

B. Local ordinances and programs must be reviewed by the commissioner for compliance with this chapter and to ensure that, based on local circumstances in that jurisdiction, the ordinance adequately protects public health and the environment. The commissioner must complete the ordinance review within six months of receipt. A local unit of government is authorized to implement ordinances during the review process. The commissioner must supply comments on the ordinance to the local unit of government when the review is complete.

Subp. 3. **Conventional programs.** Each SSTS ordinance must have technical standards. Conventional programs are comprehensive programs that employ ISTS and MSTs technical standards and criteria as specified in chapters 7080 and 7081 and program administrative functions in parts 7082.0100, subparts 1, 2, 3, and 5, and 7082.0300 to 7082.0700.

Subp. 4. **Performance programs.** A county is authorized to further choose to develop and implement a comprehensive, performance-based program using ISTS and MSTs designs tailored to adequately protect the public health and the environment based on local environmental sensitivity. Performance programs must meet the requirements of the conventional program plus include provisions necessary to implement part 7082.0100, subpart 4.

Subp. 5. **Requirements for alternative local standards.** Counties are authorized to adopt and enforce by ordinance alternative local standards for existing or new construction or replacement

of SSTS as part of a conventional program. The alternative local standards must protect public health and the environment as stipulated in Minnesota Statutes, section 115.55, subdivision 7, paragraphs (a) and (b), and must comply with items A to H.

A. Except as provided in items G and H, alternative local standards must not apply to systems in shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments.

B. Alternative local standards must comply with requirements of other applicable state laws or rules or local ordinances.

C. Local SSTS ordinances with alternative local standards for existing systems must include a time period to upgrade, replace, or discontinue use of a noncomplying system. The draft local ordinance, including the alternative local standards, must be submitted to the commissioner for comment before adoption to demonstrate that, based on local circumstances in that jurisdiction, the alternative local standards adequately protect public health and the environment. Possible considerations for justification of the alternative local standard for existing systems include:

- (1) soil separation;
- (2) soil classification;
- (3) vegetation;
- (4) system use;
- (5) localized well placement and construction;
- (6) localized density of systems and wells;
- (7) extent of area to be covered by the alternative local standard;
- (8) groundwater flow patterns; and
- (9) existing natural or artificial drainage systems.

D. In accordance with Minnesota Statutes, section 115.55, subdivision 7, paragraph (b), counties are authorized to adopt alternative local standards that are less restrictive than the agency's rules for new construction or replacement in areas of sustained and projected low population density where conditions render conformance to this chapter difficult or otherwise inappropriate after submitting documentation of the following information and conditions to the commissioner:

- (1) population density of the area covered by the alternative local standard;
- (2) reasons why conformance to this chapter is difficult or otherwise inappropriate;
- (3) a description of the hardship that would result from strict adherence to the agency's rules;
- (4) evidence of sustained and projected low population density;

(5) evidence that the proposed alternative local standard provides cost-effective and long-term treatment alternatives;

(6) a map delineating the area of the county to be served by the local standard; and

(7) applicable justifications under item C.

E. If the draft county SSTS ordinance includes alternative local standards for new construction and replacement, the ordinance must be submitted to the local water planning advisory committee created under Minnesota Statutes, section 103B.321, subdivision 3, and then submitted with justification to the commissioner at least 30 days before adoption for review and comment demonstrating that the ordinance adequately protects public health and the environment.

F. When a county has completed the applicable steps in this subpart, an ordinance containing alternative local standards may be adopted. The county is responsible for developing the processes and procedures necessary to administer the conventional program in addition to the alternative local standards. Processes and procedures must include providing maps to SSTS professionals depicting the areal extent of the alternative local standards, developing inspection procedures to be used to verify compliance with the alternative local standards for both new and existing systems, and developing an addendum to the state's existing system inspection form that reflects the altered compliance standards for the alternative local standards systems in the county, if applicable.

G. A county may adopt alternative local standards for new or replacement residential systems with flow of 2,500 gallons per day or less for systems in shoreland areas regulated under Minnesota Statutes, sections 103F.201 to 103F.221, if the alternative standards are no less stringent than provisions of chapter 7080 that went into effect on April 3, 2006.

H. A county may adopt alternative local standards for new or replacement residential systems with flow of 2,500 gallons per day or less for systems used in connection with food, beverage, and lodging establishments regulated under Minnesota Statutes, chapter 157, if the alternative standards are no less stringent than provisions of chapter 7080 that went into effect on April 3, 2006, except that the waste strength must meet the standards established in part 7080.2150, subpart 3, item K. If additional treatment of waste is needed to meet the standard in part 7080.2150, subpart 3, item K, the treatment must be in accordance with part 7080.2150, subpart 3, item A.

Statutory Authority: *MS s 14.386; 115.03; 115.55*

History: *32 SR 1413; 35 SR 1353; 37 SR 483*

Published Electronically: *October 2, 2012*

7082.0100 REQUIREMENTS FOR LOCAL ORDINANCES.

Subpart 1. **Requirement.** All SSTS ordinances must contain the provisions in items A to C.

A. A provision requiring the upgrade, replacement, repair, or discontinued use of a system failing to protect groundwater as described in part 7080.1500, subpart 4, item B, within a specified time period after the owner receives a notice of noncompliance.

B. A provision requiring the upgrade, replacement, repair, or discontinued use of a system that represents an imminent threat to public health or safety as described in part 7080.1500, subpart 4, item A, within ten months after the owner receives a notice of noncompliance or within a shorter period if required by an applicable local ordinance.

C. Local ordinance requirements regulating vertical separation for systems built before April 1, 1996, in systems that are not SWF as defined in part 7080.1100, subpart 84, must meet the requirements in part 7080.1500, subpart 4, item E.

Subp. 2. **List of differences.** A local unit of government must prepare and make available to the commissioner, and to the public upon request, a written list of all technical and administrative differences between its ordinance and chapters 7080 and 7081.

Subp. 3. **Additional ordinance requirements for all programs.** Ordinances adopted by a local unit of government under part 7082.0050 must contain the provisions in items A to R.

A. A provision that requires all design, installation, alteration, repair, maintenance, operation, pumping, and inspection activities for SSTS to be completed by an appropriately licensed business, an appropriately certified qualified employee, or a person exempted under part 7083.0700, subpart 1. A local unit of government is not authorized to require additional local licenses, local registrations, local certificates, or other similar professional credentials to perform SSTS work.

B. A provision that requires abandonment of SSTS, or part thereof, that will no longer be used, according to part 7080.2500.

C. Technical standards and criteria for new and existing SSTS that adequately protect the public health and environment, as determined by parts 7080.1500, 7080.2150, subpart 2, and 7081.0080. The local unit of government is authorized to specifically adopt technical standards in parts 7080.1710 to 7080.2400 and 7081.0110 to 7081.0290.

D. Whether variances to local ordinance provisions are allowed and, if so, the specific variance procedures required to obtain a variance from local ordinance requirements.

E. Provisions for design review, permit issuance, construction inspection, and system management.

F. A provision that requires that all lots created after January 23, 1996, have a minimum of two soil treatment and dispersal areas that support systems as described in parts 7080.2200 to 7080.2230 or site conditions described in part 7081.0270, subparts 3 to 7, as applicable.

G. A provision that specifies the conditions necessary to allow the use of holding tanks. The ordinance must specify holding tank operation and maintenance requirements. At a minimum, a monitoring and disposal contract signed by the owner and a licensed maintenance business is required unless the owner is a farmer exempt from licensing under Minnesota Statutes, section 115.56, subdivision 2 paragraph (b), clause (3). The homeowner is responsible for ensuring that the contract guarantees the removal of the tank contents before overflow or any discharge.

H. A provision that prohibits surface discharge of sewage from SSTS unless issued a national pollution discharge elimination system permit by the agency.

I. A provision specifying the allowable use and location of SSTS in floodplains in compliance with applicable state and local requirements.

J. A provision requiring that a management plan be submitted by the designer to the local unit of government before issuance of a construction permit for all new or replacement ISTS as described in part 7080.1100, subparts 51 and 66.

K. A provision requiring operating permits for all systems installed under parts 7080.2350 and 7080.2400 and chapter 7081. An operating permit is recommended for holding tanks regulated under part 7080.2290.

L. For systems not operated under a management plan, a provision requiring solids removal from septic tanks or determination of the need to remove solids from septic tanks no less than every three years. The ordinance must require removal of solids if the solids accumulation needs to be removed based on part 7080.2450.

M. A provision requiring that all owners of new or replacement Class V injection wells, as defined in Code of Federal Regulations, title 40, part 144, submit inventory information to the Environmental Protection Agency and the agency and that all Class V wells be identified as such in property transfer disclosures.

N. A provision outlining how conflicting inspections and other technical disputes between SSTS certified individuals will be resolved if they occur as described in part 7082.0700, subpart 5.

O. A provision specifying what level of local approval is needed for repair, rejuvenation, or remediation of SSTS, as defined in local ordinance.

P. A provision specifying the allowed methods to determine the loading rate from part 7080.2150, subpart 3, item E, Table IX or IXa, for sizing of soil treatment and dispersal systems.

Q. A provision that requires all sewage generated in the jurisdiction to be treated either in an agency-permitted facility or a system that meets the requirements of an ordinance adopted under this chapter.

R. If the ordinance allows a reduced vertical separation distance as described in part 7080.1500, subpart 4, item D, it must not allow more than a 15 percent reduction in the vertical separation distance to account for settling of sand or soil, normal variation of measurements, and interpretations of the limiting layer conditions.

Subp. 4. **Ordinance requirements for performance programs.** Performance programs are broader in scope than conventional programs and go beyond the minimum technical requirements of this chapter. Performance programs must meet the requirements of subpart 3 and items A to J.

A. An education program must be established to educate owners on the purpose, use, and care of SSTS and notify owners of impending scheduled submittals of compliance monitoring reports.

B. A program must be established to evaluate potential risks of SSTS-receiving environments, inform the local planning authority of changes in regulations, and evaluate the potential impacts of SSTS regulation changes on land use.

C. A program must be established to determine performance requirements necessary to protect public health and water resources for each defined receiving environment in the regulatory jurisdiction. At a minimum, the performance requirements must protect underground sources of drinking water according to chapter 4717 and protect surface waters according to chapter 7050.

D. The ordinance must establish site evaluation requirements that define the process to characterize the receiving environment.

E. A program must be established to administer renewable operating permits issued to system owners, stipulating system performance and compliance monitoring requirements renewable upon documentation of compliance with operating permit stipulations. The program must provide for tracking and reviewing compliance monitoring reports for timely submittal by owners and ensuring the system is operating within its performance requirements stipulated in the operating permit.

F. A program must be established to track residuals hauling, treatment, and disposal according to Code of Federal Regulations, title 40, part 503, and Use and Disposal of Sewage Sludge, Code of Federal Regulations, title 40, part 257, and applicable state, tribal, and local requirements.

G. A program must be established for notifying owners of pending scheduled submittals of compliance monitoring reports and performing system inspections randomly or at the time of operating permit renewal.

H. An enforcement program must be established that includes penalties for failure to comply with the compliance schedule and requires system assessments by a certified inspector at the time of operating permit renewal.

I. A record-keeping program must be established that includes a database inventory of all systems, including locations, site evaluations, record drawings, permits, and inspection reports, tracking for operating permits, and compliance reporting.

J. A financial assistance and funding program must be established providing the legal and financial support to sustain the management program.

Subp. 5. **More restrictive.** Technical or administrative requirements in local ordinances are allowed to be more restrictive than this chapter.

Statutory Authority: *MS s 115.03; 115.55*

History: 32 SR 1413; 35 SR 1353

Published Electronically: March 11, 2011

7082.0300 LOCAL PROGRAM ADMINISTRATION.

Subpart 1. Variance from requirements of this chapter.

A. A local unit of government is authorized to request a variance from the commissioner from the standards in this chapter or request a variance to the public health or environmental protection standards in parts 7080.2150, subpart 2, and 7081.0080, subparts 2 to 5.

B. Before granting a requested variance, the commissioner must find that by reason of exceptional circumstances, the strict enforcement or strict conformity with this chapter or public health or environmental standards would be unreasonable, impractical, or not feasible under the circumstances. The commissioner may permit a variance under part 7000.7000 in harmony with the general purpose of this chapter and chapters 7080 and 7081 and the intent of applicable state laws. The variance request must contain, as applicable:

- (1) the specific provision in the rule or rules from which the variance is requested;
- (2) the reasons why compliance with the rule is difficult or inappropriate;
- (3) a description of the hardship that prevents compliance with the rule;
- (4) the alternative measures that will be taken to ensure a comparable degree of compliance with the intention of the applicable chapter;
- (5) the length of time for which the variance is requested;
- (6) cost considerations; and
- (7) other relevant information requested by the commissioner as necessary to properly evaluate the variance request.

C. Variances must be submitted to and approved by the commissioner prior to implementation.

Subp. 2. Prohibited variation.

A. Local ordinances or locally issued variances must not deviate from flow determinations under part 7081.0110 if the deviation reduces the average daily flow from more than 10,000 gallons to 10,000 gallons per day or less without approval of the commissioner.

B. Programs adopted under part 7082.0100, subpart 3, must not issue variances from provisions in part 7080.2150, subpart 2, items A to D, or 7081.0080, subparts 2 to 5.

C. Only the governing state agency or locally delegated authority is authorized to issue variances to chapters 4714, 4720, 4725, 6105, and 6120.

Subp. 3. **Variation from local ordinance requirements.** Variances to standards and criteria not listed in subpart 2 are allowed to be granted on a site-by-site basis by the local unit of government, if applicable local variance procedures are followed.

Subp. 4. **Record-keeping requirements.** Local units of government must maintain records of certificates of compliance, notices of noncompliance, permit applications, issued permits, enforcement proceedings, variance requests, and other actions taken. Records must be available for review by the commissioner. Permit files must also include:

- A. site evaluation reports, including items identified in parts 7080.1730 and 7081.0200;
- B. design reports for items identified in parts 7080.2430 and 7081.0270, subpart 11;
- C. as-built drawings;
- D. management plans and results from approved management plans; and
- E. an annual list of all sewage system tanks installed in the jurisdiction, sorted by the licensed installation business.

Subp. 5. **Enforcing local ordinances.** Local units of government shall administer local programs and enforce local ordinances that regulate SSTS as adopted in compliance with this chapter. Local units of government are authorized to also enforce local ordinances under Minnesota Statutes, section 115.071, subdivisions 3 and 4.

Statutory Authority: *MS s 14.389; 115.03; 115.55; 115.56; L 2015 1Sp4 art 4 s 132,145*

History: *32 SR 1413; 35 SR 1353; 40 SR 689*

Published Electronically: *January 22, 2021*

7082.0500 PERMIT PROGRAM FOR SSTS.

Subpart 1. General requirements for permit program.

A. Local units of government shall enforce local ordinances that regulate SSTS through permitting programs that meet the minimum requirements of this chapter.

B. A local unit of government with an SSTS ordinance adopted under part 7082.0040, subparts 2 and 3, must have a permit program that specifically addresses the following:

- (1) permit application requirements;
- (2) site, design, and soil review and approval requirements and procedures;
- (3) record keeping; and
- (4) reporting to the commissioner.

C. Permits must be required for all new construction and replacement. A local unit of government is authorized to require permits for all or certain types of SSTS repairs.

D. A local unit of government with a local ordinance to regulate bedroom additions must comply with subpart 3, item C.

Subp. 2. **SSTS permit application requirements.** SSTS permit applications must require the submittal of exhibits necessary for issuing a permit as described in this chapter, along with general requirements for identifying the property and owners, a site evaluation report, a design report, a management plan, and any other information requested by the local unit of government pertinent to this process. Exhibits for site evaluation, design, and applicable construction information must be complete and include a certified statement from the certified person who conducted or oversaw the work. An approval process must be developed to address changes in the approved design that served as the basis for issuing a permit.

Subp. 3. **Permit approval requirements and procedures.** The permit program must include the requirements in items A to D.

A. A qualified employee with jurisdiction or licensed inspection business who is authorized by the local unit of government must review the permit application and other exhibits to determine whether site evaluation procedures, observations, and conclusions are accurate and fulfill applicable requirements and whether the proposed system will meet applicable requirements. An infield verification of the periodically saturated soil or bedrock at the proposed soil treatment and dispersal sites must be conducted by a qualified employee with jurisdiction or licensed inspection business who is authorized by the local unit of government. An advanced inspector is required to perform the duties listed in this item for Type IV and Type V ISTS as described in parts 7080.2350 and 7080.2400, ISTS design flow of greater than 2,500 gallons per day, and MSTs. The infield verification of the periodically saturated soil or bedrock must occur prior to issuance of the certificate of compliance.

B. The local unit of government must review and either approve or deny the permit application before issuing a construction permit. Construction must not be initiated until a construction permit is granted. Final approval of the system must be evidenced by issuance of a certificate of compliance.

C. Local units of government shall not issue a building permit or variance for a bedroom addition on property served by a system unless the SSTS is in compliance with applicable requirements, as evidenced by a certificate of compliance. A local unit of government is authorized to temporarily waive the certificate of compliance requirement in this item for a bedroom addition permit for which application is made during the period from November 1 to April 30, provided a compliance inspection of the system is performed by the following June 1 and the applicant submits a certificate of compliance by the following September 30. This item does not apply if the local unit of government does not have an ordinance requiring a permit to add a bedroom.

D. A licensed inspection business working on behalf of a local unit of government must not design or install systems that the business will be responsible for permitting or inspecting as part of its local government duties.

Statutory Authority: *MS s 115.03; 115.55*

History: 32 SR 1413; 35 SR 1353

Published Electronically: March 11, 2011

7082.0600 SYSTEM MANAGEMENT.

Subpart 1. Management plans.

A. Local units of government must require management plans for all new or replacement SSTS as described in parts 7080.2210 to 7080.2400. These plans must be submitted to the local government before issuance of a construction permit.

B. Management plans must include:

- (1) maintenance requirements, including frequency;
- (2) operational requirements, including which tasks the owner can perform and which tasks a licensed service provider or maintainer must perform;
- (3) monitoring requirements;
- (4) requirements that the owner notify the local unit of government when management plan requirements are not met;
- (5) disclosure of the location and condition of the additional soil treatment and dispersal area on the lot or serving that residence; and
- (6) other requirements as determined by the local unit of government.

Subp. 2. SSTS operating permits.

A. Local units of government must issue and enforce an operating permit for SSTS specified in part 7082.0100, subpart 3, item K.

B. An operating permit must include:

- (1) maintenance requirements, including frequency of maintenance;
- (2) operational requirements;
- (3) monitoring requirements;
- (4) compliance limits and compliance boundaries;
- (5) reporting frequency;
- (6) a requirement that the permittee notify the local unit of government when permit requirements are not met. Corrective actions must be taken as directed by the local unit of government;
- (7) disclosure of the location and condition of the additional soil treatment and dispersal system; and

(8) stipulation of acceptable and prohibited discharges.

Statutory Authority: *MS s 115.03; 115.55*

History: *32 SR 1413; 35 SR 1353*

Published Electronically: *March 11, 2011*

7082.0700 INSPECTION PROGRAM FOR SUBSURFACE SEWAGE TREATMENT SYSTEMS.

Subpart 1. **Inspection requirements.** Local units of government must adopt and implement a construction inspection program for new construction and replacement SSTS to enforce requirements under this chapter. The construction inspection program must specify the frequency and times of inspections, specify the requirements of an inspection, establish an inspection protocol, provide for when an inspection cannot be completed in a timely manner, and, at a minimum, include the requirements for a compliance inspection under subparts 2 and 3, except for subpart 3, item E.

Subp. 2. Compliance inspection; new construction or replacement.

A. A compliance inspection for all new construction or replacement must be conducted:

- (1) to ensure compliance with applicable requirements;
- (2) to ensure compliance before issuance of a permit for the addition of a bedroom on property served by an SSTS, if the local unit of government issues permits for the addition of a bedroom, unless the requirements under part 7082.0500, subpart 3, item C, are met;
- (3) by a qualified employee or licensed inspection business, authorized by the local unit of government, who is independent of the owner and the installer; and
- (4) for an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure if conducted by a party who is not the system owner. This disclosure action constitutes a compliance inspection and must be conducted according to this chapter.

B. A licensed inspection business that inspects an existing SSTS is allowed to subsequently design and install a new SSTS for that property, provided the inspection business is also licensed to design and install.

C. A licensed inspection business working on behalf of a local unit of government must not design or install a new or replacement system if there is a likelihood that the inspector or business will be responsible for permitting or inspecting the new or replacement system or system site.

D. A licensed inspection business may inspect an existing system that they designed or installed once it has been independently inspected.

E. A person working for or on behalf of a local unit of government is not allowed to use the person's position to solicit for private business gain.

Subp. 3. Certificate of compliance; notice of noncompliance.

A. SSTS in compliance with applicable requirements must be issued a certificate of compliance and systems found not in compliance must be issued a notice of noncompliance. SSTS not in compliance with part 7080.1500, subpart 4, item A, or 7081.0080, subpart 3, must be repaired or replaced within ten months or as directed under Minnesota Statutes, chapter 145A. Systems out of compliance with other applicable requirements must be repaired or replaced according to local ordinance requirements. Systems issued a notice of noncompliance for operational or monitoring deficiencies must immediately be maintained, monitored, or managed according to the operating permit.

B. The initial certificate of compliance must be issued if reasonable assurance is evident that the system was built according to applicable requirements as specified in the construction permit.

C. Local units of government must develop a certificate of compliance document or use a certificate of compliance developed by the agency for new construction and replacement. The certificate of compliance for new construction and replacement must include the vertical separation distance report described in subpart 4, item B, subitem (2), and the management plan developed under part 7082.0600, subpart 1. All certificates of compliance and notices of noncompliance for new construction and replacement must include property and property owner identification, date of inspection, system components, system location (dimensioned or drawn to scale), well setback distance, field check of soil conditions, SWF, as defined under part 7080.1100, subpart 84, designations as applicable, and Class V designation as applicable.

D. A certificate of compliance or notice of noncompliance for new construction or replacement must be signed by a licensed inspection business or by a qualified employee certified as an inspector who is authorized by the local unit of government. The certificate of compliance or notice of noncompliance for new construction and replacement must be submitted to the local unit of government no later than 15 days after any compliance inspection. The certificate of compliance or notice of noncompliance for new construction and replacement must be submitted to the owner or owner's agent within 15 days after any compliance inspection.

E. A certificate of compliance or notice of noncompliance must include a certified statement from the certified individual or qualified employee who conducted the compliance inspection and indicate whether the SSTS is in compliance with local ordinance requirements.

F. If a compliance inspection for new construction and replacement indicates that the system is not in compliance with applicable requirements, the notice must contain a statement to this effect and specify the reason for noncompliance.

G. Certificates of compliance for new construction or a replacement system remain valid for five years from the date of issuance unless the local unit of government finds evidence of noncompliance.

Subp. 4. Compliance inspection; existing systems.

A. A compliance inspection of an existing system must first determine whether the soil dispersal system, sewage tanks, or other conditions pose an imminent threat to public health and safety as defined in part 7080.1500, subpart 4, item A. A determination must then be made as to whether the sewage tanks and soil dispersal area are failing to protect ground water as defined in part 7080.1500, subpart 4, item B. The inspection must also verify compliance with part 7080.1500, subpart 4, item C.

B. The agency's inspection report form for existing SSTS, supplemented with any necessary or locally required supporting documentation, must be used for the existing system compliance inspections in subitems (1) to (4). Allowable supporting documentation includes tank integrity assessments made within the past three years and prior soil separation assessments.

(1) Tank integrity and safety compliance assessments must be completed by a licensed SSTS inspection, maintenance, installation, or service provider business or a qualified employee inspector with jurisdiction. A compliant tank integrity assessment must be completed on an empty tank, through a maintenance hole when available, and is valid for three years unless a new evaluation is requested by the owner or owner's agent or is required according to local regulations.

(2) A soil separation compliance assessment must be completed by a licensed inspection business or a qualified employee inspector with jurisdiction. Compliance must be determined either by conducting new soil borings or by prior soil separation documentation made by two independent parties. The soil borings used for system design or previous inspections are allowed to be used. If the soil separation has been determined by two independent parties, a subsequent determination is not required unless requested by the owner or owner's agent or required according to local regulations.

(3) Determination of hydraulic performance and other compliance in part 7080.1500, subpart 4, item A, must be completed by either a licensed inspection business or a qualified employee inspector with jurisdiction.

(4) A determination of operational performance and other compliance in part 7080.1500, subparts 4, item C, and 5, must be completed by a licensed advanced inspection business, a qualified employee with an advanced inspector certification with jurisdiction, or a service provider. A passing report is valid until a new inspection is requested.

C. A certificate of compliance or notice of noncompliance for an existing system must be based on the results of the verifications in item B. The certificate of compliance or notice of noncompliance for an existing system must be signed by a licensed inspection business or a qualified employee inspector with jurisdiction. The certificate or notice for an existing system must be submitted to the local unit of government with jurisdiction and the property owner or owner's agent no later than 15 days after a compliance inspection. The completed form must also be submitted to the owner or owner's agent. The certificate of compliance for an existing system is valid for three years from the date of issuance, unless a new inspection is requested by the owner or owner's agent or is required according to local regulations.

D. If a compliance inspection for an existing system indicates that the system is noncompliant, the notice must be signed by a licensed inspection business or qualified employee inspector with jurisdiction, contain a statement of noncompliance, and specify the reasons for noncompliance of each component specified in item B.

Subp. 5. Periodically saturated soil disagreements.

A. If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses for SSTS design or compliance purposes, all disputing parties must follow the procedure outlined in this subpart.

(1) All local dispute resolution procedures must be followed.

(2) If no local dispute resolution procedures exist, the disputing parties must meet at the disputed site in an attempt to resolve differences.

(3) If the provision in subitem (2) does not resolve the differences, then one or more of the methods in units (a) to (c) must be employed.

(a) Obtain an opinion from a qualified employee of the local permitting authority with jurisdiction, if the local permitting authority is willing to provide an opinion.

(b) Obtain an opinion from an SSTS technical evaluation committee, if a committee has been developed for this purpose and is available and willing to render an opinion. The committee must be created in cooperation with the commissioner.

(c) Obtain an opinion from a Minnesota licensed professional soil scientist who is a certified SSTS designer or inspector and who is independent of, and agreed upon by, both parties.

(d) If options under unit (a) or (b) are not viable, an opinion must be rendered under unit (c).

(4) If opinions rendered in subitem (2) or (3) do not resolve the dispute, all initial and follow-up documents and information generated must be submitted to the local unit of government. The local unit of government shall take into consideration all information and opinions rendered and make a final judgment. The local unit of government shall render findings of fact, conclusions of law, and findings setting forth the reasons for any final decisions it renders.

B. If a documented discrepancy arises on the depth of the periodically saturated soil between an SSTS licensed business and a local unit of government for SSTS design or compliance purposes, all disputing parties shall follow the procedure outlined in this item.

(1) The local unit of government and the licensed business must meet at the disputed site in an attempt to resolve differences.

(2) If the provision in subitem (1) does not resolve differences, then one or more of the methods in item A, subitem (3), unit (b) or (c), are allowed to be employed.

(3) If opinions in subitem (2) are not sought or do not resolve the dispute, the local unit of government shall take into consideration all information and opinions rendered and make a final

judgment. The local unit of government shall render findings of fact, conclusions of law, and findings setting forth the reasons for any final decisions they render.

C. Upon resolution of a dispute, amendments to initial disputed documents containing the resolution shall be made and submitted to the local unit of government and all other parties involved.

Statutory Authority: *MS s 115.03; 115.55*

History: *32 SR 1413; 35 SR 1353; 45 SR 725*

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