

1 Pollution Control Agency
2 Adopted Permanent Rules Relating to Individual Sewage Treatment
3 Systems

4 CHAPTER 7082

5 POLLUTION CONTROL AGENCY

6 REQUIREMENTS FOR LOCAL ISTS PROGRAMS

7 7082.0010 PURPOSE AND INTENT.

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

13 Subp. 2. Authority. In accordance with the authority
14 granted in Minnesota Statutes, chapters 103F, 103G, 115, and
15 116, the Pollution Control Agency provides the minimum standards
16 for local SSTS ordinances and administrative programs. The
17 agency offers these standards to reasonably ensure proper
18 permitting, inspection, and operation of SSTS.

19 Subp. 3. Local ordinances; construction. Local ordinances
20 referencing individual sewage treatment rules issued by the
21 agency shall be construed to mean rules governing both
22 individual subsurface sewage treatment systems and mid-sized
23 subsurface sewage treatment systems, as defined in parts
24 7080.1100, subpart 45 41, and 7081.0020, subpart 4, as published
25 in the State Register, volume 31, page 1027, and as subsequently
26 adopted.

1 7082.0020 DEFINITIONS.

2 Subpart 1. Certain terms. In addition to the definitions
3 in chapters 7080, 7081, and 7083, as published in the State
4 Register, volume 31, pages 1025, 1064, and 1088, and as
5 subsequently adopted, and Minnesota Statutes, section 115.55,
6 which are incorporated by reference, the terms used in this
7 chapter have the meanings given them. For purposes of these
8 standards, certain terms or words are interpreted as follows:
9 the words "shall" and "must" are mandatory and the word "may" is
10 permissive.

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

13 7082.0040 REGULATORY ADMINISTRATION RESPONSIBILITY.

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

22 Subp. 2. County responsibilities.

23 A. All counties must adopt and ~~effectively-enforce~~
24 implement SSTS ordinances in compliance with chapters 7080 and
25 7081, as published in the State Register, volume 31, pages 1025
26 and 1064, and as subsequently adopted, that also comply with
27 this chapter. Ordinances must apply to all land area within the

1 county, except in towns and cities that have adopted ordinances
2 that ~~comply~~ are in conformance with the county ordinance and
3 this chapter.

4 B. All counties with SSTS ordinances must:

5 (1) permit and inspect SSTS within cities and
6 townships that do not administer an effective SSTS ordinance,
7 and

8 (2) ~~determine if city and township ordinances are~~
9 ~~technically and administratively as strict as the county~~
10 ordinance that complies with these rules.

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

15 Subp. 3. City and township responsibilities. Cities and
16 townships with SSTS ordinances must effectively administer and
17 enforce an ordinance that conforms with ~~the county's regulatory~~
18 strategy this chapter and is administratively and technically as
19 strict as the county ordinance, as determined by the county
20 agency. Before Cities or and townships can adopt an SSTS
21 ordinance, the county must be consulted and concur with the
22 ordinance are authorized to adopt conventional programs as
23 described in part 7082.0050, subpart 3, even if the county has
24 adopted a performance program.

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

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

4 (1) at least one certified inspector as described
5 in part 7083.1010, subpart 2, as published in the State
6 Register, volume 31, page 1094, and as subsequently adopted, who
7 is employed by the local unit of government or a contracted
8 licensed SSTS inspection business. ~~The person may also be~~
9 ~~contracted for services by~~ Multiple local units of
10 government are allowed to contract for services with the same
11 certified inspector; and

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

15 B. an enforceable ordinance that meets the
16 requirements of this chapter; ~~and~~

17 ~~C. budget and staff appropriate to administer the~~
18 ~~provisions of the ordinance.~~

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

24 A. a copy of the standard construction permit,
25 operating permit, and inspection forms, if different from
26 previous year's;

27 B. the name and address of the program administrator,

1 all qualified employees, and contracted licensed businesses
 2 authorized to perform services on behalf of the local unit of
 3 government;

4 C. the number of permits issued in the reporting year
 5 in the following categories:

	0-2,499 gallons per-day	2,500-9,999 gallons per-day	Other establishments*
10 New-construction
12 Replacement-systems
14 Type-I
16 Type-II
18 Type-III
20 Type-IV
22 Type-V

23
 24 *Other-establishments-should-not-also-be-counted-in-the
 25 appropriate-flow-category;

26 Total SSTS by flow permitted in year:

	<u>1-2,499</u> <u>gallons</u> <u>per day</u>	<u>2,500-4,999</u> <u>gallons</u> <u>per day</u>	<u>5,000-10,000</u> <u>gallons</u> <u>per day</u>
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31 New SSTS construction

32 Replacement SSTS

33
 34
 35 Total SSTS by type permitted in year:

	<u>Residential</u>	<u>Other establishments</u>
37 <u>Type I</u>		
39 <u>Type II</u>		
41 <u>Type III</u>		
43 <u>Type IV</u>		

45

1 Type V

2
3 D. ~~the-percent-of-new-and-replacement-systems-field~~
4 ~~inspected;~~

5 E. the total number of systems serving full-time
6 residences and seasonal residences, the total number of cluster
7 systems, and the total number of other establishments in the
8 jurisdiction;

9 F. E. the estimated percentage of existing SSTS in
10 compliance within the local government's jurisdictional
11 boundaries and how the estimate was developed;

12 G. ~~the-number-of-variances-issued-from-the-local-SSTS~~
13 ~~ordinance-by-type;~~

14 H. F. the number of septic system tanks installed by
15 each licensed installation business or homeowner;

16 I. G. the number of systems regulated under an
17 operating permit ~~or-enforceable-maintenance-provisions;~~

18 J. H. for counties, the names of cities and townships
19 that have local ordinances within the county; and

20 K. I. a narrative description of problem areas in
21 local SSTS administration.

22 7082.0050 GENERAL REQUIREMENTS FOR LOCAL ORDINANCES.

23 Subpart 1. Adoption of local ordinances.

24 A. The regulation of SSTS by local governments must
25 be implemented through an ordinance based on the requirements of
26 this chapter, except that counties may are allowed to choose
27 between options described in subpart 3 or 4 and may-also are
28 allowed to adopt alternative local standards according to

1 subpart 5. Cities and towns must adopt the regulatory option
2 used by the county and must be as strict as the county
3 ordinance. Cities and townships are authorized to adopt
4 conventional programs as described in subpart 3 even if the
5 county has adopted a performance program.

6 B. County ordinances that administer SSTs programs
7 must be updated to the standards of chapters 7080 to 7083, as
8 published in the State Register, volume 31, pages 1025 and 1088,
9 and as subsequently adopted, within ~~12~~ 24 months of the
10 effective date of those chapters. City and township ordinances
11 must be updated no more than 12 months after adoption of the
12 county ordinance in which the city or township is located and
13 must comply with the standards of chapters 7080 to 7083, as
14 published in the State Register, volume 31, pages 1025 and 1088,
15 and as subsequently adopted, and must be as strict as the
16 applicable county ordinance.

17 Subp. 2. Review by agency.

18 A. A copy of all local ordinances regulating SSTs and
19 all future ordinances or amendments must be submitted to the
20 commissioner ~~within 30 days after~~ prior to adoption, accompanied
21 by a completed ordinance review checklist on a form provided by
22 the commissioner.

23 B. Local ordinances and programs must be reviewed by
24 the commissioner for compliance with this chapter and to ensure
25 that, based on local circumstances in that jurisdiction, the
26 ordinance adequately protects public health and the
27 environment. The commissioner must complete the ordinance

1 review within six months of receipt. A local unit of government
 2 is authorized to implement ordinances may-be-implemented-without
 3 prejudice during the review process. The commissioner must
 4 supply comments on the ordinance to the local unit of government
 5 when the review is complete.

6 ~~C.--Local-ordinances-that-do-not-meet-the-requirements~~
 7 ~~of-this-chapter, chapters-7080-and-7081, as-published-in-the~~
 8 ~~State-Register, volume-31, pages-1025-and-1064, and-as~~
 9 ~~subsequently-adopted, and-Minnesota-Statutes, section-115.55,~~
 10 ~~may-be-subject-to-administrative-actions.~~

11 Subp. 3. Conventional programs. Each SSTS ordinance must
 12 have technical standards. Conventional programs
 13 are comprehensive programs that employ ISTS and MSTS technical
 14 standards and criteria as specified in chapters 7080 and 7081,
 15 as published in the State Register, volume 31, pages 1025 and
 16 1064, and as subsequently adopted, and program administrative
 17 functions in parts 7082.0100, subparts 1, 2, 3, and 5, and
 18 7082.0300 to 7082.0700.

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

27 Subp. 5. Requirements for alternative local standards.

1 Counties ~~may~~ are authorized to adopt and enforce by ordinance
2 alternative local standards for existing or new construction or
3 replacement of SSTS as part of a conventional program. The
4 alternative local standards must protect public health and the
5 environment as stipulated in Minnesota Statutes, section 115.55,
6 subdivision 7, paragraphs (a) and (b), and must comply with
7 items A to F.

8 A. Alternative local standards must not apply to SWF
9 systems in shoreland areas or wellhead protection areas or
10 systems serving food, beverage, or lodging establishments.

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

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

- 24 (1) soil separation;
25 (2) soil classification;
26 (3) vegetation;
27 (4) system use;

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

8 D. In accordance with Minnesota Statutes, section
 9 115.55, subdivision 7, paragraph (b), counties may are
 10 authorized to adopt alternative local standards that are less
 11 restrictive than the agency's rules for new construction or
 12 replacement in areas of sustained and projected low population
 13 density where conditions render conformance to this chapter
 14 difficult or otherwise inappropriate.---Counties-seeking-to-adopt
 15 alternative-local-standards-for-new-construction-or-replacement
 16 must-submit-the-following-information-to-the-commissioner after
 17 submitting documentation of the following information and
 18 conditions to the commissioner:

- 19 (1) population density of the area covered by the
- 20 alternative local standard;
- 21 (2) reasons why conformance to this chapter is
- 22 difficult or otherwise inappropriate;
- 23 (3) a description of the hardship that would
- 24 result from strict adherence to ~~this chapter~~ the agency's rules;
- 25 (4) evidence of sustained and projected low
- 26 population density;
- 27 (5) evidence that the proposed alternative local

1 standard provides cost-effective and long-term treatment
2 alternatives;

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

5 (7) applicable justifications under item C.

6 ~~E. All-new-systems-installed-under-alternative-local~~
7 ~~standards-must-have-operating-permits-issued-by-the-county-that~~
8 ~~adopted-the-alternative-local-standards.~~

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

17 7082.0100 REQUIREMENTS FOR LOCAL ORDINANCES.

18 Subpart 1. Requirement. All SSTS ordinances must contain
19 the provisions in items A to D.

20 A. A provision requiring the upgrade, replacement,
21 repair, or discontinued use of a system failing to protect
22 groundwater as described in part 7080.1500, subpart 4, item B,
23 as published in the State Register, volume 31, page 1031, and as
24 subsequently adopted, within a specified time period after the
25 owner receives a notice of noncompliance.

26 B. A provision requiring the upgrade, replacement,
27 repair, or discontinued use of a system that represents an

1 imminent threat to public health or safety as described in part
2 7080.1500, subpart 4, item A, as published in the State
3 Register, volume 31, page 1031, and as subsequently adopted,
4 within ten months after the owner receives a notice of
5 noncompliance or within a shorter period if required by an
6 applicable local ordinance.

7 C. A provision requiring that the owner has five
8 years from the date of the bedroom addition permit issuance to
9 upgrade, replace, repair, or discontinue use of the system.

10 This upgrade criterion applies only if:

11 (1) the local unit of government issues a permit
12 to add a bedroom;

13 (2) the system inspection is triggered by a
14 bedroom addition permit request;

15 (3) the system was installed between May 27,
16 1989, and January 3, 1996;

17 (4) the system does not comply with part
18 7080.1500, subpart 4, as published in the State Register, volume
19 31, page 1031, and as subsequently adopted; and

20 (5) the system is not an imminent threat to
21 public health or safety as described in part 7080.1500, subpart
22 4, item A, as published in the State Register, volume 31, page
23 1031, and as subsequently adopted.

24 D. Local ordinance requirements regulating vertical
25 separation for systems built before April 1, 1996, in
26 non-SWF systems that are not SWF as defined in part 7080.1100,
27 subpart 84, as published in the State Register, volume ..., page

1, must meet the requirements in part 7080.1500, subpart 4,
2 item E, as published in the State Register, volume 31, page
3 1031, and as subsequently adopted.

4 Subp. 2. List of differences. A local unit of government
5 must prepare and make available to the commissioner, and to the
6 public upon request, a written list of all technical and
7 administrative differences between its ordinance and chapters
8 7080 and 7081, as published in the State Register, volume 31,
9 pages 1025 and 1064, and as subsequently adopted.

10 Subp. 3. Additional ordinance requirements for all
11 programs.

12 A. Ordinances adopted by a local unit of government under
13 part 7082.0050 must contain the provisions in subitems-~~(1)~~-to
14 ~~(18)~~ items A to R.

15 ~~(1)~~ A. A provision that requires all design,
16 installation, alteration, repair, maintenance, operation,
17 pumping, and inspection activities for SSTS to be completed by
18 an appropriately licensed business, an appropriately certified
19 qualified employee, or a person exempted under part 7083.0700,
20 subpart 1, as published in the State Register, volume 31, page
21 1089, and as subsequently adopted. A local unit of government
22 may is not authorized to require additional local licenses,
23 local registrations, local certificates, or other similar
24 professional credentials to perform SSTS work. ~~The ordinance~~
25 ~~may require other state issued licenses or certificates of~~
26 ~~registration.~~

27 ~~(2)~~ B. A provision that requires abandonment of SSTS,

1 or part thereof, that will no longer be used, according to part
2 7080.2500, as published in the State Register, volume 31, page
3 1062, and as subsequently adopted.

4 (3) C. Technical standards and criteria for new and
5 existing SSTS that adequately protect the public health and
6 environment, as determined by parts 7080.1500, 7080.2150,
7 subpart 2, and 7081.0080, as published in the State Register,
8 volume 31, pages 1031, 1051, and 1066, and as subsequently
9 adopted. The ordinance-may local unit of government is
10 authorized to specifically adopt technical standards in parts
11 7080.1710 to 7080.2400 and 7081.0110 to 7081.0290, as published
12 in the State Register, volume 31, pages 1040 to 1061 and 1067 to
13 1078, and as subsequently adopted.

14 (4) D. Whether variances to local ordinance
15 provisions are allowed and, if so, the specific variance
16 procedures required to obtain a variance from local ordinance
17 requirements.

18 (5) E. Provisions for design review, permit issuance,
19 construction inspection, and system operation management.

20 (6) F. A provision that requires that all lots
21 created after January 23, 1996, have a minimum of two soil
22 treatment and dispersal areas that support systems as described
23 in parts 7080.2200 to 7080.2230, as published in the State
24 Register, volume 31, pages 1054 to 1057, and as subsequently
25 adopted, or site conditions described in part 7081.0270, subpart
26 4 subparts 3 to 7, as published in the State Register, volume
27 31, page 1077, and as subsequently adopted, as applicable.

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

11 ~~(8)~~ H. A provision that prohibits surface discharge
12 of sewage from SSTS unless issued a national pollution discharge
13 elimination system permit by the agency.

14 ~~(9)~~ I. A provision specifying the allowable use and
15 location of SSTS in floodplains in compliance with applicable
16 state and local requirements.

17 ~~(10)~~ J. A provision requiring that a management plan
18 be developed, reviewed, and approved before issuance of a
19 construction permit for all new or replacement ISTS as described
20 in part 7080.1100, ~~subpart-52~~ subparts 51 and 66, as published
21 in the State Register, volume 31, page 1028, and as subsequently
22 adopted.

23 ~~(11)~~ K. A provision requiring operating permits for
24 all systems installed under parts 7080.2290, 7080.2350, and
25 7080.2400, and chapter 7081, as published in the State Register,
26 volume 31, pages 1058, 1059, 1061, and 1064, and as subsequently
27 adopted.

1 ~~(12)~~ L. For systems not operated under a management
2 plan, a provision requiring solids removal from septic tanks or
3 determination of the need to remove solids from septic tanks no
4 less than every three years. The ordinance must require removal
5 of solids if the solids accumulation needs to be removed based
6 on part 7080.2450, as published in the State Register, volume
7 31, page 1061, and as subsequently adopted.

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

14 ~~(14)~~ N. A provision outlining how conflicting
15 inspections and other technical disputes between SSTS certified
16 individuals will be resolved if they occur as described in part
17 7082.0700, subpart 5.

18 ~~(15)~~ O. A provision specifying what level of local
19 approval is needed for repair, rejuvenation, or remediation of
20 SSTS, as defined in local ordinance.

21 ~~(16)~~ P. A provision ~~allowing-or-disallowing-the-use~~
22 ~~of-soil-texture-and-structure-in-Table-IX-in~~ specifying the
23 allowed methods to determine the loading rate from part
24 7080.2150, subpart 3, item F E, Tables IX or IXa, as published
25 in the State Register, volume 31, page 1052, and volume . . . ,
26 page , and as subsequently adopted, for sizing of soil
27 treatment and dispersal systems.

1 ~~(17)-A-determination-of-whether,-or-where,-additional~~
2 ~~nitrogen,-phosphorus,-or-other-contaminants-compliance-levels~~
3 ~~will-apply.~~

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

8 ~~B.--Ordinances-adopted-by-a-local-unit-of-government~~
9 ~~under-part-7082.0040,-subpart-2-or-3,-may-contain-the-provisions~~
10 ~~in-subitems-(1)-to-(5).~~

11 ~~(1)-A-provision-allowing-or-disallowing-the-use~~
12 ~~of-the-system-types-as-described-in-parts-7080.2210-to~~
13 ~~7080.2400,-as-published-in-the-State-Register,-volume-31,-pages~~
14 ~~1054-to-1057,-and-as-subsequently-adopted.~~

15 ~~(2)-A-provision-on-the-use,-prohibition,-or~~
16 ~~restriction-of-warranted-technologies-as-established-in~~
17 ~~Minnesota-Statutes,-section-115.55.~~

18 ~~(3)-A-provision-to-regulate-the-disposal-of~~
19 ~~septage-according-to-federal-requirements-and-appropriate-state~~
20 ~~guidelines.~~

21 ~~(4)-Provisions-that-protect-the-secondary-soil~~
22 ~~treatment-and-dispersal-area-for-future-SSTP-use.~~

23 ~~(5)-In-addition-to-the-provision-in-item-A,~~
24 ~~subitem-(6),-a-provision-to-require-enough-land-area-to-support~~
25 ~~the-proposed-improvements,-plus-the-area-needed-for-the-two-soil~~
26 ~~treatment-areas.--The-ordinance-may-also-contain-a-provision-on~~
27 ~~the-action-needed-in-the-event-that-the-lot-was-created~~

1 ~~according to item A, subitem (6), but the lot's soil treatment~~
2 ~~and dispersal area was subsequently damaged or disturbed.~~

3 R. If the ordinance allows a reduced vertical
4 separation distance as described in part 7080.1500, subpart 4,
5 item D, as published in the State Register, volume 31, page
6 1031, and as subsequently adopted, it must not allow more than a
7 15 percent reduction in the vertical separation distance to
8 account for settling of sand or soil, normal variation of
9 measurements, and interpretations of the limiting layer
10 conditions.

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

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

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

24 C. A program must be established to determine
25 performance requirements necessary to protect public health and
26 water resources for each defined receiving environment in the
27 regulatory jurisdiction. At a minimum, the performance

1 requirements must protect underground sources of drinking water
2 according to chapter 4717 and protect surface waters according
3 to chapter 7050.

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

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

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

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

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

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

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

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

12 7082.0300 LOCAL PROGRAM ADMINISTRATION.

13 Subpart 1. Variance from requirements of this chapter.

14 A. A local unit of government may is authorized to
15 request a variance from the commissioner from the standards in
16 this chapter or request a variance to the public health or
17 environmental protection standards in parts 7080.2150, subpart
18 2, and 7081.0080, subparts 2 to 5, as published in the State
19 Register, volume 31, pages 1051 and 1066, and as subsequently
20 adopted.

21 B. Before granting a requested variance, the
22 commissioner must find that by reason of exceptional
23 circumstances, the strict enforcement or strict conformity with
24 this chapter or public health or environmental standards would
25 be unreasonable, impractical, or not feasible under the
26 circumstances. The commissioner may permit a variance under
27 part 7000.7000 in harmony with the general purpose of this

1 chapter and chapters 7080 and 7081, as published in the State
2 Register, volume 31, pages 1025 and 1064, and as subsequently
3 adopted, and the intent of applicable state laws. The variance
4 request must contain, as applicable:

5 (1) the specific provision in the rule or rules
6 from which the variance is requested;

7 (2) the reasons why compliance with the rule is
8 difficult or inappropriate;

9 (3) a description of the hardship that prevents
10 compliance with the rule;

11 (4) the alternative measures that will be taken
12 to ensure a comparable degree of compliance with the intention
13 of the applicable chapter;

14 (5) the length of time for which the variance is
15 requested;

16 (6) cost considerations; and

17 (7) other relevant information requested by the
18 commissioner as necessary to properly evaluate the variance
19 request.

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

22 Subp. 2. Prohibited variation.

23 A. Local ordinances or locally issued variances may
24 must not deviate from flow determinations under part 7081.0110,
25 as published in the State Register, volume 31, page 1067, and as
26 subsequently adopted, if the deviation reduces the average daily
27 flow from more than 10,000 gallons to 10,000 gallons per day or

1 less without approval of the commissioner.

2 B. Programs adopted under part 7082.0100, subpart 3,
3 must not issue variances from provisions in part 7080.2150,
4 subpart 2, or 7081.0080, subparts 2 to 5, as published in the
5 State Register, volume 31, pages 1051 and 1066, and as
6 subsequently adopted.

7 C. Only the governing state agency or locally
8 delegated authority may is authorized to issue variances to
9 chapters 4715, 4720, 4725, 6105, and 6120.

10 Subp. 3. Variation from local ordinance requirements.

11 Variances to standards and criteria not listed in subpart 2 may
12 are allowed to be granted on a site-by-site basis by the local
13 unit of government, if applicable local variance procedures are
14 followed.

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

21 A. site evaluation reports, including items
22 identified in parts 7080.1730 and 7081.0200, as published in the
23 State Register, volume 31, pages 1043 and 1074, and as
24 subsequently adopted;

25 B. design reports for items identified in parts
26 7080.2430 and 7081.0270, subpart ~~10~~ 11, as published in the
27 State Register, volume 31, pages 1061 and 1078, and as

1 subsequently adopted;

2 C. as-built drawings;

3 D. management plans and results ~~for~~ from approved
4 management plans; and

5 E. an annual list of all sewage system tanks
6 installed in the jurisdiction, sorted by the licensed
7 installation business.

8 Subp. 5. Enforcement of local ordinances. Local units of
9 government shall administer local programs and enforce local
10 ordinances that regulate SSTS as adopted in compliance with this
11 chapter. Local units of government may are authorized to also
12 enforce local ordinances under Minnesota Statutes, section
13 115.071, subdivisions 3 and 4.

14 7082.0500 PERMIT PROGRAM FOR SSTS.

15 Subpart 1. General requirements for permit program.

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

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

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

27 C. Permits must be required for all new construction

1 and replacement. A local unit of government is authorized to
2 require permits may-be-required for all or certain types of SSTS
3 repairs.

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

6 Subp. 2. SSTS permit application requirements.

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

19 B. Local units of government must require, review,
20 and approve the technical basis for Type II to Type V systems as
21 listed in parts 7080.2250 to 7080.2400, as published in the
22 State Register, volume 31, pages 1057 to 1061, and as
23 subsequently adopted.

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

26 A. A qualified employee with jurisdiction or licensed
27 inspection business who is authorized by the local unit of

1 government must review the permit application and other exhibits
2 to determine whether site evaluation procedures, observations,
3 and conclusions are accurate and fulfill applicable
4 requirements, ~~which include~~ and whether the proposed system will
5 meet applicable requirements. An infield verification of
6 the ~~seasonally~~ periodically saturated soil or bedrock at the
7 proposed soil treatment and dispersal sites ~~and any other~~
8 ~~exhibits, and whether the proposed system will meet applicable~~
9 requirements must be conducted by a qualified employee with
10 jurisdiction or licensed inspection business who is authorized
11 by the local unit of government. An MSTTS advanced inspector is
12 required to perform the duties listed in this item for Type IV
13 and Type V ISTS as described in parts 7080.2350 and 7080.2400,
14 as published in the State Register, volume 31, pages 1059 to
15 1061, and as subsequently adopted, ISTS design flow of greater
16 than 2,500 gallons per day, and MSTTS. The infield verification
17 of the ~~seasonally~~ periodically saturated soil or bedrock may
18 must occur ~~at any point~~ prior to issuance of the certificate of
19 compliance.

20 B. The local unit of government must review and
21 approve or deny the permit application and management plan
22 before issuing a construction permit. Construction must not be
23 initiated until a construction permit is granted. Final
24 approval of the system must be evidenced by issuance of a
25 certificate of compliance.

26 C. Local units of government shall not issue a
27 building permit or variance for a bedroom addition on property

1 served by a system unless the SSTS is in compliance with
2 applicable requirements, as evidenced by a certificate of
3 compliance. A local unit of government ~~may~~ is authorized to
4 temporarily waive the certificate of compliance requirement in
5 this item for a bedroom addition permit for which application is
6 made during the period from November 1 to April 30, provided a
7 compliance inspection of the system is performed by the
8 following June 1 and the applicant submits a certificate of
9 compliance by the following September 30. This item does not
10 apply if the local unit of government does not have an ordinance
11 requiring a permit to add a bedroom.

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

16 7082.0600 SYSTEM MANAGEMENT.

17 Subpart 1. Management plans.

18 A. Local units of government shall require management
19 plans for all new or replacement SSTS as described in parts
20 7080.2210 to 7080.2300, as published in the State Register,
21 volume 31, pages 1054 to 1059, and as subsequently adopted.
22 These plans must be submitted and-approved to the local
23 government before issuance of a construction permit. ~~The~~
24 ~~approved-management-plan-must-be-reviewed-and-signed-by-the~~
25 ~~owner-before-issuance-of-the-construction-permit-~~

26 B. Management plans must include:

27 (1) maintenance requirements, including

1 frequency;

2 (2) operational requirements, including which
3 tasks the owner can perform and which tasks a licensed service
4 provider or maintainer must perform;

5 (3) monitoring requirements;

6 (4) requirements that the owner notify the local
7 unit of government when management plan requirements are not
8 met;

9 (5) disclosure of the location and condition of
10 the additional soil treatment and dispersal area on the lot or
11 serving that residence; and

12 (6) other requirements as determined by the local
13 unit of government.

14 ~~C.--Management-plans-may-be-modified-as-necessary-and~~
15 ~~reapproved-by-the-local-unit-of-government.~~

16 Subp. 2. SSTS operating permits.

17 A. Local units of government must issue and enforce
18 an operating permit for SSTS specified in parts 7080.2290,
19 7080.2350, and 7080.2400, and chapter 7081, as published in the
20 State Register, volume 31, pages 1058, 1059, and 1061, and as
21 subsequently adopted, and any other system deemed to require
22 operational oversight as determined by the local unit of
23 government. ~~If-the-local-unit-of-government-does-not-have-the~~
24 ~~resources-or-desire-to-provide-adequate-oversight-of-systems~~
25 ~~requiring-an-operating-permit,-those-systems-or-technologies~~
26 ~~must-not-be-installed-in-that-jurisdiction.--Operating-permits~~
27 ~~may-be-modified-as-necessary-and-reapproved-by-the-local-unit-of~~

1 ~~government-~~

2 B. An operating permit must include:

3 (1) maintenance requirements, including frequency
4 of maintenance;

5 (2) operational requirements;

6 (3) monitoring requirements;

7 (4) compliance limits and compliance boundaries;

8 (5) reporting frequency;

9 (6) a requirement that the permittee notify the
10 local unit of government when permit requirements are not met.

11 Corrective actions must be taken as directed by the local unit
12 of government;

13 (7) disclosure of the location and condition of
14 the additional soil treatment and dispersal system; and

15 (8) stipulation of acceptable and prohibited
16 discharges.

17 7082.0700 INSPECTION PROGRAM FOR SUBSURFACE SEWAGE TREATMENT
18 SYSTEMS.

19 Subpart 1. Inspection requirements. Local units of
20 government must have an inspection program to enforce
21 requirements under this chapter. The inspection program must
22 specify the frequency and times of inspections, specify the
23 requirements of an inspection, establish an inspection protocol,
24 provide for when an inspection cannot be completed in a timely
25 manner, and, at a minimum, include the requirements for a
26 compliance inspection under subparts 2 and 3, except for subpart
27 3, item E.

1 Subp. 2. Compliance inspection.

2 A. A compliance inspection must be conducted:

3 (1) to ensure compliance with applicable
4 requirements;

5 (2) to ensure compliance before issuance of a
6 permit for the addition of a bedroom on property served by an
7 SSTS, if the local unit of government issues permits for the
8 addition of a bedroom, unless the requirements under part
9 7082.0500, subpart 3, item C, are met;

10 (3) for all new construction or replacement;

11 (4) by a qualified employee or licensed
12 inspection business, authorized by the local unit of government,
13 who is independent of the owner and the installer; and

14 (5) for an evaluation, investigation, inspection,
15 recommendation, or other process used to prepare a disclosure if
16 conducted by a party who is not the system owner. This
17 disclosure action constitutes a compliance inspection and must
18 be conducted according to this chapter.

19 B. A licensed inspection business that inspects an
20 existing SSTS may is allowed to subsequently design and install
21 a new SSTS for that property, provided the inspection business
22 is also licensed to design and install. A licensed inspection
23 business working on behalf of a local unit of government must
24 not design or install a system if there is a likelihood that the
25 inspector or business will be responsible for permitting or
26 inspecting the system or system site. A person working for or
27 on behalf of a local unit of government may is not allowed to

1 use the person's position to solicit for private business gain.

2 ~~C.---The-construction-inspection-requirement-may-be~~
3 ~~satisfied-by-a-review-by-the-designated-local-official-of-video,~~
4 ~~electronic,-photographic,-or-other-evidence-to-show-compliance~~
5 ~~as-provided-by-the-installation-business.~~

6 Subp. 3. Certificate of compliance; notice of
7 noncompliance; new construction or replacement.

8 A. SSTS in compliance with applicable requirements
9 must be issued a certificate of compliance and systems found not
10 in compliance must be issued a notice of noncompliance. SSTS
11 not in compliance with part 7080.1500, subpart 4, item A, or
12 7081.0080, subpart 3, as published in the State Register, volume
13 31, pages 1031 and 1066, and as subsequently adopted, must be
14 repaired or replaced within ten months or as directed under
15 Minnesota Statutes, chapter 145A. Systems out of compliance
16 with other applicable requirements must be repaired or replaced
17 according to local ordinance requirements. Systems issued a
18 notice of noncompliance for operational or monitoring
19 deficiencies must immediately be maintained, monitored, or
20 managed according to the operating permit.

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

25 C. Local units of government shall develop a
26 certificate of compliance document or use a certificate of
27 compliance developed by the agency. The certificate of

1 compliance must include the vertical separation distance report
2 described in subpart 4, item B, subitem (2), and the management
3 plan developed under part 7082.0600, subpart 1. All
4 certificates of compliance and notices of noncompliance must
5 include property and property owner identification, date of
6 inspection, system components, system location (dimensioned or
7 drawn to scale), well setback distance, field check of soil
8 conditions, SWF, as defined under part 7080.1100, subpart 84, as
9 published in the State Register, volume ..., page, and as
10 subsequently adopted, designations as applicable, and Class V
11 designation as applicable.

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

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

26 F. If a compliance inspection indicates that the
27 system is not in compliance with applicable requirements, the

1 notice must contain a statement to this effect and specify what
2 must be done to achieve compliance.

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

7 Subp. 4. Certificate of compliance; notice of
8 noncompliance; existing systems.

9 A. The agency's existing SSTS inspection report forms
10 shall be used for existing system compliance inspections. A
11 local unit of government is authorized to require the use of
12 additional, local existing system inspection forms may-also-be
13 required.

14 B. An inspection for existing SSTS must verify the
15 conditions in subitems (1) to ~~(5)~~ (3).

16 (1) Sewage tanks must be assessed for leakage
17 below the operating depth. A watertightness leakage report must
18 be completed that includes the method or methods used to make
19 the assessment. The assessment may must be made by any either a
20 licensed SSTS business, except a design business, or made-by a
21 qualified employee with an SSTS certification, except as a
22 designer. A passing report is valid for three years unless the
23 certified individual has reason to believe that a new inspection
24 is to be conducted and the tank is found not to be watertight.

25 (2) The vertical separation distance from the
26 bottom of the soil treatment and dispersal system and the
27 seasonally periodically saturated soil or bedrock must be

1 verified. This verification must be achieved by either
2 conducting soil borings or by prior verifications by two
3 independent parties. The ~~system-designer's~~ soil borings used
4 for system design or previous inspections qualify as one a
5 verification. A vertical separation distance report must be
6 completed that includes the method or methods used to make the
7 assessment and includes any previous soil borings. The
8 assessment may must be made by either a licensed inspection
9 business or a qualified employee inspector with jurisdiction.
10 If the verification separation report consists of verifications
11 by two independent parties, a subsequent verification is not
12 required unless the inspector has reason to believe a
13 noncompliant condition exists. ~~The allowable verifications for~~
14 ~~the vertical separation report may be past soil borings used for~~
15 ~~design purposes or past soil borings from previous compliance~~
16 ~~inspections, if the verification was conducted by a party~~
17 ~~independent of the party conducting the previous inspection. In~~
18 ~~these cases, the past soil borings must be attached to the~~
19 ~~vertical separation report.~~

20 (3) Sewage backup, surface seeping, or surface
21 discharge from the system must be determined. A hydraulic
22 function report must be completed that includes the method or
23 methods used to make the assessment. The assessment may must be
24 made by either a licensed inspection business or a qualified
25 employee with an inspector certification. A passing report is
26 valid until a new inspection is requested or if the hydraulic
27 performance is believed to have changed.

1 ~~(4)-Compliance-with-the-system-operational-and~~
2 ~~maintenance-requirements-must-be-determined.--An-operation-and~~
3 ~~maintenance-report-must-be-completed-that-includes-the-method-or~~
4 ~~methods-used-to-make-the-assessment.--The-assessment-must-be~~
5 ~~made-by-a-licensed-inspection-business-or-a-qualified-employee~~
6 ~~inspector.~~

7 ~~(5)-The-verification-of-proper-management-of-a~~
8 ~~system-must-be-conducted-by-a-licensed-operation-business-or~~
9 ~~qualified-employee-operator-if-the-system-requires-an-operator.~~
10 ~~A-passing-report-is-valid-until-a-new-inspection-is-requested~~
11 ~~and-becomes-invalid-if-future-required-monitoring-does-not-take~~
12 ~~place-or-monitoring-results-indicate-noncompliance.--If-required~~
13 ~~maintenance-is-not-up-to-date-at-the-time-of-inspection, the~~
14 ~~maintenance-activities-must-be-performed-at-the-time-of-the~~
15 ~~inspection-and-an-assessment-made-by-the-inspector-or-operator~~
16 ~~as-to-whether-the-system-can-again-be-in-compliance, provided~~
17 ~~required-maintenance-is-performed-in-the-future.~~

18 C. A certificate of compliance shall be based on the
19 results of the verifications in item B. The certificate of
20 compliance ~~or-notice-of-noncompliance~~ must be signed by a
21 licensed inspection business or a qualified employee certified
22 as an inspector. The certificate or notice must be submitted to
23 the local unit of government with jurisdiction and the property
24 owner or owner's agent no later than 15 days after a compliance
25 inspection. The completed form must also be submitted to the
26 owner or owner's agent. The certificate of compliance is valid
27 for three years from the date of issuance, even if one of the

1 supporting reports expires before the three-year period, unless
2 an inspector finds evidence of noncompliance.

3 D. If a compliance inspection indicates that the
4 system is noncompliant, the notice must be signed by a licensed
5 inspection business or qualified employee certified as an
6 inspector and contain a statement to that effect and specify
7 what must be done to achieve compliance.

8 Subp. 5. Seasonally Periodically saturated soil
9 disagreements.

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

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

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

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

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

25 (b) Obtain an opinion from an SSTS technical
26 evaluation committee, if a committee has been developed for this
27 purpose and is available and willing to render an opinion. The

1 committee must be created in cooperation with the commissioner.

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

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

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

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

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

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

27 (3) If opinions in subitem (2) are not sought or

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1 do not resolve the dispute, the local unit of government shall
2 take into consideration all information and opinions rendered
3 and make a final judgment. The local unit of government shall
4 render findings of fact, conclusions of law, and findings
5 setting forth the reasons for any final decisions they render.

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