

CHAPTER 115

WATER POLLUTION CONTROL; SANITARY DISTRICTS

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115.05 JUDICIAL REVIEW.

Subd. 11. **Judicial review.** Any person aggrieved by any final decision of the agency or of the commissioner may obtain judicial review thereof pursuant to sections 14.63 to 14.69 if the final decision is made pursuant to the agency's or the commissioner's authority under section 115A.914, this chapter, chapter 116, or the rules adopted thereunder, and if the decision is a final decision pertaining to:

- (1) issuance, amendment, or denial of a permit, license, or certification;
- (2) granting or denial of a variance;
- (3) issuance of an administrative order, except for an administrative penalty order issued pursuant to section 116.072; or
- (4) denial of a contested case hearing on any of the matters listed in clauses (1) to (3).

History: 1999 c 235 s 1

115.55 INDIVIDUAL SEWAGE TREATMENT SYSTEMS.

[For text of subs 1 to 5, see M.S.1998]

Subd. 5a. **Inspection criteria for existing systems.** (a) An inspection of an existing system must evaluate the criteria in paragraphs (b) to (j).

(b) If the inspector finds one or more of the following conditions:

- (1) sewage discharge to surface water;
- (2) sewage discharge to ground surface;
- (3) sewage backup; or

(4) any other situation with the potential to immediately and adversely affect or threaten public health or safety,

then the system constitutes an imminent threat to public health or safety and, if not repaired, must be upgraded, replaced, or its use discontinued within ten months of receipt of the notice described in subdivision 5b, or within a shorter period of time if required by local ordinance.

(c) An existing system that has none of the conditions in paragraph (b), and has at least two feet of soil separation need not be upgraded, repaired, replaced, or its use discontinued, notwithstanding any local ordinance that is more restrictive.

(d) Paragraph (c) does not apply to systems in shoreland areas regulated under sections 103F.201 to 103F.221, wellhead protection areas as defined in section 103I.005, or those used in connection with food, beverage, and lodging establishments regulated under chapter 157.

(e) If the local unit of government with jurisdiction over the system has adopted an ordinance containing local standards pursuant to subdivision 7, the existing system must comply with the ordinance. If the system does not comply with the ordinance, it must be upgraded, replaced, or its use discontinued according to the ordinance.

(f) If a seepage pit, drywell, cesspool, or leaching pit exists and the local unit of government with jurisdiction over the system has not adopted local standards to the contrary, the system is failing and must be upgraded, replaced, or its use discontinued within the time required by subdivision 3 or local ordinance.

(g) If the system fails to provide sufficient groundwater protection, then the local unit of government or its agent shall order that the system be upgraded, replaced, or its use discontinued within the time required by rule or the local ordinance.

(h) The authority to find a threat to public health under section 145A.04, subdivision 8, is in addition to the authority to make a finding under paragraphs (b) to (d).

(i) Local inspectors must use the standard inspection form provided by the agency. The inspection information required by local ordinance may be included as an attachment to the standard form. The following language must appear on the standard form: "If an existing system is not failing as defined in law, and has at least two feet of design soil separation, then the system need not be upgraded, repaired, replaced, or its use discontinued, notwithstanding any local ordinance that is more strict. This does not apply to systems in shoreland areas, wellhead protection areas, or those used in connection with food, beverage, and lodging establishments as defined in law."

(j) For the purposes of this subdivision, an "existing system" means a functioning system installed prior to April 1, 1996.

[For text of subds 5b to 8, see M.S.1998]

History: 1999 c 231 s 130

115.71 DEFINITIONS.

[For text of subds 1 to 9, see M.S.1998]

Subd. 9a. **Water supply system.** "Water supply system" means a community or non-transient noncommunity water system as defined in Code of Federal Regulations, title 40, section 141.2, as amended.

Subd. 10. **Water supply system operator.** "Water supply system operator" means a person who has direct responsibility for the operation of or operates a water supply system or such parts of the system as would affect the quality and safety of the water.

History: 1999 c 66 s 1,2

115.741 ADVISORY COUNCIL ON WATER SUPPLY SYSTEMS AND WASTEWATER TREATMENT FACILITIES.

Subdivision 1. **Purpose; membership.** The advisory council on water supply systems and wastewater treatment facilities shall advise the commissioners of health and the pollution control agency regarding classification of water supply systems and wastewater treatment facilities, qualifications and competency evaluation of water supply system operators and wastewater treatment facility operators, and additional laws, rules, and procedures that may be desirable for regulating the operation of water supply systems and of wastewater treatment facilities. The advisory council is composed of 11 voting members, of whom:

(1) one member must be from the department of health, division of environmental health, appointed by the commissioner of health;

(2) one member must be from the pollution control agency appointed by the commissioner of the pollution control agency;

(3) three members must be certified water supply system operators, appointed by the commissioner of health, one of whom must represent a nonmunicipal community or nontransient noncommunity water supply system;

(4) three members must be certified wastewater treatment facility operators, appointed by the commissioner of the pollution control agency;

(5) one member must be a representative from an organization representing municipalities, appointed by the commissioner of health with the concurrence of the commissioner of the pollution control agency; and

(6) two members must be members of the public who are not associated with water supply systems or wastewater treatment facilities. One must be appointed by the commissioner of health and the other by the commissioner of the pollution control agency. Consideration should be given to one of these members being a representative of academia knowledgeable in water or wastewater matters.

Subd. 2. **Geographic representation.** At least one of the water supply system operators and at least one of the wastewater treatment facility operators must be from outside the

seven-county metropolitan area and one wastewater operator must come from the metropolitan council.

Subd. 3. **Terms; compensation.** The terms of the appointed members and the compensation and removal of all members are governed by section 15.059.

[For text of subd 4, see M.S.1998]

History: 1999 c 66 s 3–5