

1.1 Pollution Control Agency
1.2 Proposed Permanent Rules Relating to Individual Sewage Treatment
1.3 Systems
1.4 CHAPTER 7082
1.5 POLLUTION CONTROL AGENCY
1.6 REQUIREMENTS FOR LOCAL ISTS PROGRAMS
1.7 7082.0010 PURPOSE AND INTENT.
1.8 Subpart 1. **Effect.** The proper location, design,
1.9 installation, use, and maintenance of subsurface sewage
1.10 treatment systems (SSTS) protects the public health, safety, and
1.11 general welfare by the discharge of adequately treated sewage to
1.12 groundwater.
1.13 Subp. 2. **Authority.** In accordance with the authority
1.14 granted in Minnesota Statutes, chapters 103F, 103G, 115, and
1.15 116, the Pollution Control Agency provides the minimum standards
1.16 for local SSTS ordinances and administrative programs. The
1.17 agency offers these standards to reasonably ensure proper
1.18 permitting, inspection, and operation of SSTS.
1.19 Subp. 3. **Local ordinances; construction.** Local ordinances
1.20 referencing individual sewage treatment rules issued by the
1.21 agency shall be construed to mean rules governing both
1.22 individual subsurface sewage treatment systems and mid-sized
1.23 subsurface sewage treatment systems, as defined in parts
1.24 7080.1100, subpart 45, and 7081.0020, subpart 4, as published in
1.25 the State Register, volume ..., page ..., and as subsequently
1.26 adopted.
2.1 7082.0020 DEFINITIONS.
2.2 Subpart 1. **Certain terms.** In addition to the definitions
2.3 in chapters 7080, 7081, and 7083, as published in the State
2.4 Register, volume .., page ..., and as subsequently adopted, and
2.5 Minnesota Statutes, section 115.55, which are incorporated by
2.6 reference, the terms used in this chapter have the meanings
2.7 given them. For purposes of these standards, certain terms or
2.8 words are interpreted as follows: the words "shall" and "must"
2.9 are mandatory and the word "may" is permissive.
2.10 Subp. 2. **Permittee.** "Permittee" means a person who is
2.11 named on a permit issued pursuant to local ordinance.
2.12 7082.0040 REGULATORY ADMINISTRATION RESPONSIBILITY.
2.13 Subpart 1. **Agency responsibilities.** The agency is
2.14 responsible for providing the framework for local SSTS
2.15 ordinances along with providing minimum administrative
2.16 procedures or strategies to ensure effective permitting and
2.17 inspection of SSTS. The agency is also responsible for
2.18 reviewing local ordinances to ensure adequate protection of
2.19 public health and the environment and that local administration
2.20 is sufficient to ensure compliance.
2.21 Subp. 2. **County responsibilities.**
2.22 A. All counties must adopt and effectively enforce
2.23 SSTS ordinances in compliance with chapters 7080 and 7081, as
2.24 published in the State Register, volume ..., page ..., and as
2.25 subsequently adopted, that also comply with this chapter.
2.26 Ordinances must apply to all land area within the county, except
2.27 in towns and cities that have adopted ordinances that comply

3.1 with the county ordinance and this chapter.

3.2 B. All counties with SSTS ordinances must:

3.3 (1) permit and inspect SSTS within cities and

3.4 townships that do not administer an effective SSTS ordinance;

3.5 and

3.6 (2) determine if city and township ordinances are

3.7 technically and administratively as strict as the county

3.8 ordinance.

3.9 Subp. 3. City and township responsibilities. Cities and

3.10 townships with SSTS ordinances must effectively administer and

3.11 enforce an ordinance that conforms with the county's regulatory

3.12 strategy and is administratively and technically as strict as

3.13 the county ordinance, as determined by the county. Before

3.14 cities or townships can adopt an SSTS ordinance, the county must

3.15 be consulted and concur with the ordinance.

3.16 Subp. 4. Required fiscal and physical capacity for local

3.17 programs. All local governments that administer SSTS programs

3.18 must have:

3.19 A. adequate personnel to properly conduct SSTS

3.20 technical and administrative functions. All local governments

3.21 that administer SSTS programs must have:

3.22 (1) at least one certified inspector as described

3.23 in part 7083.1010, subpart 2, as published in the State

3.24 Register, volume ..., page ..., and as subsequently adopted, who

3.25 is employed by the local unit of government or a contracted

3.26 licensed SSTS inspection business. The person may also be

3.27 contracted for services by multiple local units of government;

4.1 and

4.2 (2) at least one person who is employed by the

4.3 local unit of government who has received accredited training on

4.4 administration of local SSTS programs;

4.5 B. an enforceable ordinance that meets the

4.6 requirements of this chapter; and

4.7 C. budget and staff appropriate to administer the

4.8 provisions of the ordinance.

4.9 Subp. 5. Reporting requirements for all local

4.10 programs. Local units of government that administer SSTS

4.11 programs must provide an annual report to the commissioner. The

4.12 report must be submitted to the commissioner no later than

4.13 February 1 for the previous calendar year. The reports must

4.14 include:

4.15 A. a copy of the standard construction permit,

4.16 operating permit, and inspection forms, if different from

4.17 previous year's;

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

4.19 all qualified employees, and contracted licensed businesses

4.20 authorized to perform services on behalf of the local unit of

4.21 government;

4.22 C. the number of permits issued in the reporting year

4.23 in the following categories:

4.24	<u>0-2,499</u>	<u>2,500-9,999</u>	<u>Other</u>
4.25	<u>gallons</u>	<u>gallons</u>	<u>establishments*</u>
4.26	<u>per day</u>	<u>per day</u>	

4.28	<u>New construction</u>	....	....	....
4.30	<u>Replacement systems</u>	....	....	....
5.1	<u>Type I</u>	....	....	....
5.3	<u>Type II</u>	....	....	....
5.5	<u>Type III</u>	....	....	....
5.7	<u>Type IV</u>	....	....	....
5.9	<u>Type V</u>	....	....	....

5.11 *Other establishments should not also be counted in the
5.12 appropriate flow category;

5.13 D. the percent of new and replacement systems field
5.14 inspected;

5.15 E. the total number of systems serving full-time
5.16 residences and seasonal residences;

5.17 F. the estimated percentage of existing SSTS in
5.18 compliance within the local government's jurisdictional
5.19 boundaries;

5.20 G. the number of variances issued from the local SSTS
5.21 ordinance by type;

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

5.24 I. the number of systems regulated under an operating
5.25 permit or enforceable maintenance provisions;

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

5.28 K. a narrative description of problem areas in local
5.29 SSTS administration.

5.30 7082.0050 GENERAL REQUIREMENTS FOR LOCAL ORDINANCES.

5.31 Subpart 1. Adoption of local ordinances.

5.32 A. The regulation of SSTS by local governments must
6.1 be implemented through an ordinance based on the requirements of
6.2 this chapter, except that counties may choose between options
6.3 described in subpart 3 or 4 and may also adopt alternative local
6.4 standards according to subpart 5. Cities and towns must adopt
6.5 the regulatory option used by the county and must be as strict
6.6 as the county ordinance.

6.7 B. County ordinances that administer SSTS programs
6.8 must be updated to the standards of chapters 7080 to 7083, as
6.9 published in the State Register, volume ..., page ..., and as
6.10 subsequently adopted, within 12 months of the effective date of
6.11 those chapters. City and township ordinances must be updated no
6.12 more than 12 months after adoption of the county ordinance in
6.13 which the city or township is located and must comply with the
6.14 standards of chapters 7080 to 7083, as published in the State
6.15 Register, volume ..., page ..., and as subsequently adopted, and
6.16 must be as strict as the applicable county ordinance.

6.17 Subp. 2. Review by agency.

6.18 A. A copy of all local ordinances regulating SSTS and

6.19 all future ordinances or amendments must be submitted to the
6.20 commissioner within 30 days after adoption, accompanied by a
6.21 completed ordinance review checklist provided by the
6.22 commissioner.

6.23 B. Local ordinances and programs must be reviewed by
6.24 the commissioner for compliance with this chapter and to ensure
6.25 that, based on local circumstances in that jurisdiction, the
6.26 ordinance adequately protects public health and the
6.27 environment. The commissioner must complete the ordinance
7.1 review within six months of receipt. Ordinances may be
7.2 implemented without prejudice during the review process. The
7.3 commissioner must supply comments on the ordinance to the local
7.4 unit of government when the review is complete.

7.5 C. Local ordinances that do not meet the requirements
7.6 of this chapter, chapters 7080 and 7081, as published in the
7.7 State Register, volume ..., page ..., and as subsequently
7.8 adopted, and Minnesota Statutes, section 115.55, may be subject
7.9 to administrative actions.

7.10 Subp. 3. Conventional programs. Each SSTS ordinance must
7.11 have technical standards. Conventional programs are programs
7.12 that employ ISTS and MSTs technical standards and criteria as
7.13 specified in chapters 7080 and 7081, as published in the State
7.14 Register, volume ..., page ..., and as subsequently adopted, and
7.15 program administrative functions in parts 7082.0100, subparts 1,
7.16 2, 3, and 5, and 7082.0300 to 7082.0700.

7.17 Subp. 4. Performance programs. A county may further
7.18 choose to develop and implement a comprehensive,
7.19 performance-based program using ISTS and MSTs designs tailored
7.20 to adequately protect the public health and the environment
7.21 based on local environmental sensitivity. Performance programs
7.22 must meet the requirements of the conventional program plus
7.23 include provisions necessary to implement part 7082.0100,
7.24 subpart 4.

7.25 Subp. 5. Requirements for alternative local standards.
7.26 Counties may adopt and enforce by ordinance alternative local
7.27 standards for existing or new construction or replacement of
8.1 SSTS as part of a conventional program. The alternative local
8.2 standards must protect public health and the environment as
8.3 stipulated in Minnesota Statutes, section 115.55, subdivision 7,
8.4 paragraphs (a) and (b), and must comply with items A to F.

8.5 A. Alternative local standards must not apply to SWF.

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

8.9 C. Local SSTS ordinances with alternative local
8.10 standards for existing systems must include a time period to
8.11 upgrade, replace, or discontinue use of a noncomplying system.
8.12 The draft local ordinance, including the alternative local
8.13 standards, must be submitted to the commissioner for comment
8.14 before adoption to demonstrate that, based on local
8.15 circumstances in that jurisdiction, the alternative local
8.16 standards adequately protect public health and the environment.
8.17 Justification for the alternative local standard for existing
8.18 systems may include:

8.19 (1) soil separation;
8.20 (2) soil classification;
8.21 (3) vegetation;
8.22 (4) system use;
8.23 (5) localized well placement and construction;
8.24 (6) localized density of systems and wells;
8.25 (7) extent of area to be covered by the
8.26 alternative local standard;
8.27 (8) groundwater flow patterns; and
9.1 (9) existing natural or artificial drainage
9.2 systems.
9.3 D. Counties may adopt alternative local standards for
9.4 new construction or replacement in areas of sustained and
9.5 projected low population density where conditions render
9.6 conformance to this chapter difficult or otherwise
9.7 inappropriate. Counties seeking to adopt alternative local
9.8 standards for new construction or replacement must submit the
9.9 following information to the commissioner:
9.10 (1) population density of the area covered by the
9.11 alternative local standard;
9.12 (2) reasons why conformance to this chapter is
9.13 difficult or otherwise inappropriate;
9.14 (3) a description of the hardship that would
9.15 result from strict adherence to this chapter;
9.16 (4) evidence of sustained and projected low
9.17 population density;
9.18 (5) evidence that the proposed alternative local
9.19 standard provides cost-effective and long-term treatment
9.20 alternatives;
9.21 (6) a map delineating the area of the county to
9.22 be served by the local standard; and
9.23 (7) applicable justifications under item C.
9.24 E. All new systems installed under alternative local
9.25 standards must have operating permits issued by the county that
9.26 adopted the alternative local standards.
9.27 F. If the draft county SSTS ordinance includes
10.1 alternative local standards for new construction and
10.2 replacement, the ordinance must be submitted to the local water
10.3 planning advisory committee created under Minnesota Statutes,
10.4 section 103B.321, subdivision 3, and then submitted with
10.5 justification to the commissioner at least 30 days before
10.6 adoption for review and comment demonstrating that the ordinance
10.7 adequately protects public health and the environment.
10.8 7082.0100 REQUIREMENTS FOR LOCAL ORDINANCES.
10.9 Subpart 1. Requirement. All SSTS ordinances must contain
10.10 the provisions in items A to D.
10.11 A. A provision requiring the upgrade, replacement,
10.12 repair, or discontinued use of a system failing to protect
10.13 groundwater as described in part 7080.1500, subpart 4, item B,
10.14 as published in the State Register, volume ..., page ..., and as
10.15 subsequently adopted, within a specified time period after the
10.16 owner receives a notice of noncompliance.
10.17 B. A provision requiring the upgrade, replacement,
10.18 repair, or discontinued use of a system that represents an

10.19 imminent threat to public health or safety as described in part
10.20 7080.1500, subpart 4, item A, as published in the State
10.21 Register, volume ..., page ..., and as subsequently adopted,
10.22 within ten months after the owner receives a notice of
10.23 noncompliance.

10.24 C. A provision requiring that the owner has five
10.25 years from the date of the bedroom addition permit issuance to
10.26 upgrade, replace, repair, or discontinue use of the system.
10.27 This upgrade criterion applies only if:

11.1 (1) the local unit of government issues a permit
11.2 to add a bedroom;

11.3 (2) the system inspection is triggered by a
11.4 bedroom addition permit request;

11.5 (3) the system was installed between May 27,
11.6 1989, and January 3, 1996;

11.7 (4) the system does not comply with part
11.8 7080.1500, subpart 4, as published in the State Register, volume
11.9 ..., page ..., and as subsequently adopted; and

11.10 (5) the system is not an imminent threat to
11.11 public health or safety as described in part 7080.1500, subpart
11.12 4, item A, as published in the State Register, volume ..., page
11.13 ..., and as subsequently adopted.

11.14 D. Local ordinance requirements regulating vertical
11.15 separation for systems built before April 1, 1996, in non-SWF
11.16 must meet the requirements in part 7080.1500, subpart 4, item E,
11.17 as published in the State Register, volume ..., page ..., and as
11.18 subsequently adopted.

11.19 **Subp. 2. List of differences.** A local unit of government
11.20 must prepare and make available to the commissioner, and to the
11.21 public upon request, a written list of all technical and
11.22 administrative differences between its ordinance and chapters
11.23 7080 and 7081, as published in the State Register, volume ...,
11.24 page ..., and as subsequently adopted.

11.25 **Subp. 3. Additional ordinance requirements for all**
11.26 **programs.**

11.27 A. Ordinances adopted by a local unit of government
12.1 under part 7082.0050 must contain the provisions in subitems (1)
12.2 to (18).

12.3 (1) A provision that requires all design,
12.4 installation, alteration, repair, maintenance, operation,
12.5 pumping, and inspection activities for SSTS to be completed by
12.6 an appropriately licensed business, an appropriately certified
12.7 qualified employee, or a person exempted under part 7083.0700,
12.8 subpart 1, as published in the State Register, volume ..., page
12.9 ..., and as subsequently adopted. A local unit of government
12.10 may not require additional local licenses, local registrations,
12.11 local certificates, or other similar professional credentials to
12.12 perform SSTS work. The ordinance may require other state-issued
12.13 licenses or certificates of registration.

12.14 (2) A provision that requires abandonment of
12.15 SSTS, or part thereof, that will no longer be used, according to
12.16 part 7080.2500, as published in the State Register, volume ...,
12.17 page ..., and as subsequently adopted.

12.18 (3) Technical standards and criteria for new and

12.19 existing SSTS that adequately protect the public health and
12.20 environment, as determined by parts 7080.1500, 7080.2150,
12.21 subpart 2, and 7081.0080, as published in the State Register,
12.22 volume ..., page ..., and as subsequently adopted. The
12.23 ordinance may specifically adopt technical standards in parts
12.24 7080.1710 to 7080.2400 and 7081.0110 to 7081.0290, as published
12.25 in the State Register, volume ..., page ..., and as subsequently
12.26 adopted.

12.27 (4) Whether variances to local ordinance
13.1 provisions are allowed and, if so, the specific variance
13.2 procedures required to obtain a variance from local ordinance
13.3 requirements.

13.4 (5) Provisions for design review, permit
13.5 issuance, construction inspection, and system operation.

13.6 (6) A provision that requires that all lots
13.7 created after January 23, 1996, have a minimum of two soil
13.8 treatment and dispersal areas that support systems as described
13.9 in parts 7080.2200 to 7080.2230, as published in the State
13.10 Register, volume ..., page ..., and as subsequently adopted, or
13.11 site conditions described in part 7081.0270, subpart 4, as
13.12 published in the State Register, volume ..., page ..., and as
13.13 subsequently adopted, as applicable.

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

13.24 (8) A provision that prohibits surface discharge
13.25 of sewage from SSTS unless issued a national pollution discharge
13.26 elimination system permit by the agency.

13.27 (9) A provision specifying the allowable use and
14.1 location of SSTS in floodplains in compliance with applicable
14.2 state and local requirements.

14.3 (10) A provision requiring that a management plan
14.4 be developed, reviewed, and approved before issuance of a
14.5 construction permit for all new or replacement ISTS as described
14.6 in part 7080.1100, subpart 52, as published in the State
14.7 Register, volume ..., page ..., and as subsequently adopted.

14.8 (11) A provision requiring operating permits for
14.9 all systems installed under parts 7080.2290, 7080.2350, and
14.10 7080.2400, and chapter 7081, as published in the State Register,
14.11 volume ..., page ..., and as subsequently adopted.

14.12 (12) A provision requiring solids removal from
14.13 septic tanks or determination of the need to remove solids from
14.14 septic tanks no less than every three years. The ordinance must
14.15 require removal of solids if the solids accumulation needs to be
14.16 removed based on part 7080.2450, as published in the State
14.17 Register, volume ..., page ..., and as subsequently adopted.

14.18 (13) A provision requiring that all owners of new

14.19 or replacement Class V injection wells, as defined in Code of
14.20 Federal Regulations, title 40, part 144, submit inventory
14.21 information to the Environmental Protection Agency and the
14.22 agency and that all Class V wells be identified as such in
14.23 property transfer disclosures.
14.24 (14) A provision outlining how conflicting
14.25 inspections and other technical disputes between SSTS certified
14.26 individuals will be resolved if they occur as described in part
14.27 7082.0700, subpart 5.
15.1 (15) A provision specifying what level of local
15.2 approval is needed for repair, rejuvenation, or remediation of
15.3 SSTS, as defined in local ordinance.
15.4 (16) A provision allowing or disallowing the use
15.5 of soil texture and structure in Table IX in part 7080.2150,
15.6 subpart 3, item F, as published in the State Register, volume
15.7 ..., page ..., and as subsequently adopted, for sizing of soil
15.8 treatment and dispersal systems.
15.9 (17) A determination of whether, or where,
15.10 additional nitrogen, phosphorus, or other contaminants
15.11 compliance levels will apply.
15.12 (18) A provision that requires all sewage
15.13 generated in the jurisdiction to be treated either in an
15.14 agency-permitted facility or a system that meets the
15.15 requirements of an ordinance adopted under this chapter.
15.16 B. Ordinances adopted by a local unit of government
15.17 under part 7082.0040, subpart 2 or 3, may contain the provisions
15.18 in subitems (1) to (5).
15.19 (1) A provision allowing or disallowing the use
15.20 of the system types as described in parts 7080.2210 to
15.21 7080.2400, as published in the State Register, volume ..., page
15.22 ..., and as subsequently adopted.
15.23 (2) A provision on the use, prohibition, or
15.24 restriction of warrantied technologies as established in
15.25 Minnesota Statutes, section 115.55.
15.26 (3) A provision to regulate the disposal of
15.27 septage according to federal requirements and appropriate state
16.1 guidelines.
16.2 (4) Provisions that protect the secondary soil
16.3 treatment and dispersal area for future SSTS use.
16.4 (5) In addition to the provision in item A,
16.5 subitem (6), a provision to require enough land area to support
16.6 the proposed improvements, plus the area needed for the two soil
16.7 treatment areas. The ordinance may also contain a provision on
16.8 the action needed in the event that the lot was created
16.9 according to item A, subitem (6), but the lot's soil treatment
16.10 and dispersal area was subsequently damaged or disturbed.
16.11 **Subp. 4. Ordinance requirements for performance programs.**
16.12 Performance programs must meet the requirements of subpart 3 and
16.13 items A to J.
16.14 A. An education program must be established to
16.15 educate owners on the purpose, use, and care of SSTS and notify
16.16 owners of impending scheduled submittals of compliance
16.17 monitoring reports.
16.18 B. A program must be established to evaluate

16.19 potential risks of SSTS-receiving environments, inform the local
16.20 planning authority of changes in regulations, and evaluate the
16.21 potential impacts of SSTS regulation changes on land use.

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

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

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

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

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

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

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

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

18.7 Subp. 5. **More restrictive.** Technical or administrative
18.8 requirements in local ordinances may be more restrictive than
18.9 this chapter.

18.10 7082.0300 LOCAL PROGRAM ADMINISTRATION.

18.11 Subpart 1. **Variance from requirements of this chapter.**

18.12 A. A local unit of government may request a variance
18.13 from the commissioner from the standards in this chapter or
18.14 request a variance to the public health or environmental
18.15 protection standards in parts 7080.2150, subpart 2, and
18.16 7081.0080, subparts 2 to 5, as published in the State Register,
18.17 volume ..., page ..., and as subsequently adopted.

18.18 B. Before granting a requested variance, the

18.19 commissioner must find that by reason of exceptional
18.20 circumstances, the strict enforcement or strict conformity with
18.21 this chapter or public health or environmental standards would
18.22 be unreasonable, impractical, or not feasible under the
18.23 circumstances. The commissioner may permit a variance under
18.24 part 7000.7000 in harmony with the general purpose of this
18.25 chapter and chapters 7080 and 7081, as published in the State
18.26 Register, volume ..., page ..., and as subsequently adopted, and
18.27 the intent of applicable state laws. The variance request must
19.1 contain, as applicable:

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

19.4 (2) the reasons why compliance with the rule is
19.5 difficult or inappropriate;

19.6 (3) a description of the hardship that prevents
19.7 compliance with the rule;

19.8 (4) the alternative measures that will be taken
19.9 to ensure a comparable degree of compliance with the intention
19.10 of the applicable chapter;

19.11 (5) the length of time for which the variance is
19.12 requested;

19.13 (6) cost considerations; and

19.14 (7) other relevant information requested by the
19.15 commissioner as necessary to properly evaluate the variance
19.16 request.

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

19.19 Subp. 2. **Prohibited variation.**

19.20 A. Local ordinances or locally issued variances may
19.21 not deviate from flow determinations under part 7081.0110, as
19.22 published in the State Register, volume ..., page ..., and as
19.23 subsequently adopted, if the deviation reduces the average daily
19.24 flow from more than 10,000 gallons to 10,000 gallons per day or
19.25 less without approval of the commissioner.

19.26 B. Programs adopted under part 7082.0100, subpart 3,
19.27 must not issue variances from provisions in part 7080.2150,
20.1 subpart 2, or 7081.0080, subparts 2 to 5, as published in the
20.2 State Register, volume ..., page ..., and as subsequently
20.3 adopted.

20.4 C. Only the governing state agency or locally
20.5 delegated authority may issue variances to chapters 4715, 4720,
20.6 4725, 6105, and 6120.

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

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

20.18 A. site evaluation reports, including items

20.19 identified in parts 7080.1730 and 7081.0200, as published in the
20.20 State Register, volume ..., page ..., and as subsequently
20.21 adopted;
20.22 B. design reports for items identified in parts
20.23 7080.2430 and 7081.0270, subpart 10, as published in the State
20.24 Register, volume ..., page ..., and as subsequently adopted;
20.25 C. as-built drawings;
20.26 D. management plans and results for approved
20.27 management plans; and
21.1 E. an annual list of all sewage system tanks
21.2 installed in the jurisdiction, sorted by the licensed
21.3 installation business.
21.4 **Subp. 5. Enforcement of local ordinances. Local units of**
21.5 **government shall administer local programs and enforce local**
21.6 **ordinances that regulate SSTS as adopted in compliance with this**
21.7 **chapter. Local units of government may also enforce local**
21.8 **ordinances under Minnesota Statutes, section 115.071,**
21.9 **subdivisions 3 and 4.**
21.10 **7082.0500 PERMIT PROGRAM FOR SSTS.**
21.11 **Subpart 1. General requirements for permit program.**
21.12 A. Local units of government shall enforce local
21.13 ordinances that regulate SSTS through permitting programs that
21.14 meet the minimum requirements of this chapter.
21.15 B. A local unit of government with an SSTS ordinance
21.16 adopted under part 7082.0040, subparts 2 and 3, must have a
21.17 permit program that specifically addresses the following:
21.18 (1) permit application requirements;
21.19 (2) site, design, and soil review and approval
21.20 requirements and procedures;
21.21 (3) record keeping; and
21.22 (4) reporting to the commissioner.
21.23 C. Permits must be required for all new construction
21.24 and replacement. Permits may be required for all or certain
21.25 types of SSTS repairs.
21.26 D. A local unit of government with a local ordinance
21.27 to regulate bedroom additions must comply with subpart 3, item C.
22.1 **Subp. 2. SSTS permit application requirements.**
22.2 A. SSTS permit applications must require the
22.3 submittal of exhibits necessary for issuing a permit as
22.4 described in this chapter, along with general requirements for
22.5 identifying the property and owners, a site evaluation report, a
22.6 design report, a management plan, and any other information
22.7 requested by the local unit of government pertinent to this
22.8 process. Exhibits for site evaluation, design, and applicable
22.9 construction information must be complete and include a
22.10 certified statement from the certified person who conducted or
22.11 oversaw the work. An approval process must be developed to
22.12 address changes in the approved design that served as the basis
22.13 for issuing a permit.
22.14 B. Local units of government must require, review,
22.15 and approve the technical basis for Type II to Type V systems as
22.16 listed in parts 7080.2250 to 7080.2400, as published in the
22.17 State Register, volume ..., page ..., and as subsequently
22.18 adopted.

22.19 Subp. 3. Permit approval requirements and procedures. The
22.20 permit program must include the requirements in items A to C.
22.21 A. A qualified employee or licensed inspection
22.22 business who is authorized by the local unit of government must
22.23 review the permit application to determine whether site
22.24 evaluation procedures, observations, and conclusions are
22.25 accurate and fulfill applicable requirements, which include an
22.26 infield verification of the seasonally saturated soil or bedrock
22.27 at the proposed soil treatment and dispersal sites and any other
23.1 exhibits, and whether the proposed system will meet applicable
23.2 requirements. An MSTs inspector is required to perform the
23.3 duties listed in this item for MSTs. The infield verification
23.4 of the seasonally saturated soil or bedrock may occur at any
23.5 point prior to issuance of the certificate of compliance.
23.6 B. The local unit of government must review and
23.7 approve or deny the permit application and management plan
23.8 before issuing a construction permit. Construction must not be
23.9 initiated until a construction permit is granted. Final
23.10 approval of the system must be evidenced by issuance of a
23.11 certificate of compliance.
23.12 C. Local units of government shall not issue a permit
23.13 for a bedroom addition on property served by a system unless the
23.14 SSTS is in compliance with applicable requirements, as evidenced
23.15 by a certificate of compliance. A local unit of government may
23.16 temporarily waive the certificate of compliance requirement in
23.17 this item for a bedroom addition permit for which application is
23.18 made during the period from November 1 to April 30, provided a
23.19 compliance inspection of the system is performed by the
23.20 following June 1 and the applicant submits a certificate of
23.21 compliance by the following September 30. This item does not
23.22 apply if the local unit of government does not have an ordinance
23.23 requiring a permit to add a bedroom.
23.24 7082.0600 SYSTEM MANAGEMENT.
23.25 Subpart 1. Management plans.
23.26 A. Local units of government shall require management
23.27 plans for all new or replacement SSTS as described in parts
24.1 7080.2210 to 7080.2300, as published in the State Register,
24.2 volume ..., page ..., and as subsequently adopted. These plans
24.3 must be submitted and approved before issuance of a construction
24.4 permit. The approved management plan must be reviewed and
24.5 signed by the owner before issuance of the construction permit.
24.6 B. Management plans must include:
24.7 (1) maintenance requirements, including
24.8 frequency;
24.9 (2) operational requirements, including which
24.10 tasks the owner can perform and which tasks a licensed service
24.11 provider or maintainer must perform;
24.12 (3) monitoring requirements;
24.13 (4) requirements that the owner notify the local
24.14 unit of government when management plan requirements are not
24.15 met;
24.16 (5) disclosure of the location and condition of
24.17 the additional soil treatment and dispersal area on the lot or
24.18 servicing that residence; and

24.19 (6) other requirements as determined by the local
24.20 unit of government.

24.21 C. Management plans may be modified as necessary and
24.22 reapproved by the local unit of government.

24.23 Subp. 2. SSTS operating permits.

24.24 A. Local units of government must issue and enforce
24.25 an operating permit for SSTS specified in parts 7080.2290,
24.26 7080.2350, and 7080.2400, and chapter 7081, as published in the
24.27 State Register, volume ..., page ..., and as subsequently
25.1 adopted, and any other system deemed to require operational
25.2 oversight as determined by the local unit of government. If the
25.3 local unit of government does not have the resources or desire
25.4 to provide adequate oversight of systems requiring an operating
25.5 permit, those systems or technologies must not be installed in
25.6 that jurisdiction. Operating permits may be modified as
25.7 necessary and reapproved by the local unit of government.

25.8 B. An operating permit must include:

25.9 (1) maintenance requirements, including frequency
25.10 of maintenance;

25.11 (2) operational requirements;

25.12 (3) monitoring requirements;

25.13 (4) compliance limits and compliance boundaries;

25.14 (5) reporting frequency;

25.15 (6) a requirement that the permittee notify the
25.16 local unit of government when permit requirements are not met.
25.17 Corrective actions must be taken as directed by the local unit
25.18 of government;

25.19 (7) disclosure of the location and condition of
25.20 the additional soil treatment and dispersal system; and

25.21 (8) stipulation of acceptable and prohibited
25.22 discharges.

25.23 7082.0700 INSPECTION PROGRAM FOR SUBSURFACE SEWAGE TREATMENT
25.24 SYSTEMS.

25.25 Subpart 1. Inspection requirements. Local units of
25.26 government must have an inspection program to enforce
25.27 requirements under this chapter. The inspection program must
26.1 specify the frequency and times of inspections, specify the
26.2 requirements of an inspection, establish an inspection protocol,
26.3 provide for when an inspection cannot be completed in a timely
26.4 manner, and, at a minimum, include the requirements for a
26.5 compliance inspection under subparts 2 and 3, except for subpart
26.6 3, item E.

26.7 Subp. 2. Compliance inspection.

26.8 A. A compliance inspection must be conducted:

26.9 (1) to ensure compliance with applicable
26.10 requirements;

26.11 (2) to ensure compliance before issuance of a
26.12 permit for the addition of a bedroom on property served by an
26.13 SSTS, if the local unit of government issues permits for the
26.14 addition of a bedroom, unless the requirements under part
26.15 7082.0500, subpart 3, item C, are met;

26.16 (3) for all new construction or replacement;

26.17 (4) by a qualified employee or licensed
26.18 inspection business, authorized by the local unit of government,

26.19 who is independent of the owner and the installer; and
26.20 (5) for an evaluation, investigation, inspection,
26.21 recommendation, or other process used to prepare a disclosure if
26.22 conducted by a party who is not the system owner. This
26.23 disclosure action constitutes a compliance inspection and must
26.24 be conducted according to this chapter.

26.25 B. A licensed inspection business that inspects an
26.26 existing SSTS may subsequently design and install a new SSTS for
26.27 that property, provided the inspection business is also licensed
27.1 to design and install. A person working for or on behalf of a
27.2 local unit of government may not use the person's position to
27.3 solicit for private business gain.

27.4 C. The construction inspection requirement may be
27.5 satisfied by a review by the designated local official of video,
27.6 electronic, photographic, or other evidence to show compliance
27.7 as provided by the installation business.

27.8 **Subp. 3. Certificate of compliance; notice of**
27.9 **noncompliance; new construction or replacement.**

27.10 A. SSTS in compliance with applicable requirements
27.11 must be issued a certificate of compliance and systems found not
27.12 in compliance must be issued a notice of noncompliance. SSTS
27.13 not in compliance with part 7080.1500, subpart 4, item A, or
27.14 7081.0080, subpart 3, as published in the State Register, volume
27.15 ..., page ..., and as subsequently adopted, must be repaired or
27.16 replaced within ten months or as directed under Minnesota
27.17 Statutes, chapter 145A. Systems out of compliance with other
27.18 applicable requirements must be repaired or replaced according
27.19 to local ordinance requirements. Systems issued a notice of
27.20 noncompliance for operational or monitoring deficiencies must
27.21 immediately be maintained, monitored, or managed according to
27.22 the operating permit.

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

27.27 C. Local units of government shall develop a
28.1 certificate of compliance document or use a certificate of
28.2 compliance developed by the agency. The certificate of
28.3 compliance must include the vertical separation distance report
28.4 described in subpart 4, item B, subitem (2), and the management
28.5 plan developed under part 7082.0600, subpart 1. All
28.6 certificates of compliance and notices of noncompliance must
28.7 include property and property owner identification, date of
28.8 inspection, system components, system location (dimensioned or
28.9 drawn to scale), well setback distance, field check of soil
28.10 conditions, SWF designations as applicable, and Class V
28.11 designation as applicable.

28.12 D. A certificate of compliance or notice of
28.13 noncompliance for new construction or replacement must be signed
28.14 by a licensed inspection business or by a qualified employee
28.15 certified as an inspector who is authorized by the local unit of
28.16 government. The certificate of compliance or notice of
28.17 noncompliance must be submitted to the local unit of government
28.18 no later than 15 business days after any compliance inspection.

28.19 The certificate of compliance or notice of noncompliance must be
28.20 submitted to the owner or owner's agent within 15 business days.

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

28.26 F. If a compliance inspection indicates that the
28.27 system is not in compliance with applicable requirements, the
29.1 notice must contain a statement to this effect and specify what
29.2 must be done to achieve compliance.

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

29.7 **Subp. 4. Certificate of compliance; notice of**
29.8 **noncompliance; existing systems.**

29.9 A. The agency's existing SSTS inspection report forms
29.10 shall be used for existing system compliance inspections. Local
29.11 existing system inspection forms may also be required.

29.12 B. An inspection for existing SSTS must verify the
29.13 conditions in subitems (1) to (5).

29.14 (1) Sewage tanks must be assessed for leakage
29.15 below the operating depth. A watertightness report must be
29.16 completed that includes the method or methods used to make the
29.17 assessment. The assessment may be made by any licensed SSTS
29.18 business, except a design business, or made by a qualified
29.19 employee with an SSTS certification, except as a designer. A
29.20 passing report is valid for three years unless the certified
29.21 individual has reason to believe that a new inspection is to be
29.22 conducted and the tank is found not to be watertight.

29.23 (2) The vertical separation distance from the
29.24 bottom of the soil treatment and dispersal system and the
29.25 seasonally saturated soil or bedrock must be verified by two
29.26 independent parties. The system designer's soil borings qualify
29.27 as one verification. A vertical separation distance report must
30.1 be completed that includes the method or methods used to make
30.2 the assessment. The assessment may be made by a licensed
30.3 inspection business or a qualified employee inspector. If the
30.4 verification separation report consists of verifications by two
30.5 independent parties, a subsequent verification is not required
30.6 unless the inspector has reason to believe a noncompliant
30.7 condition exists. The allowable verifications for the vertical
30.8 separation report may be past soil borings used for design
30.9 purposes or past soil borings from previous compliance
30.10 inspections, if the verification was conducted by a party
30.11 independent of the party conducting the previous inspection. In
30.12 these cases, the past soil borings must be attached to the
30.13 vertical separation report.

30.14 (3) Sewage backup, surface seeping, or surface
30.15 discharge from the system must be determined. A hydraulic
30.16 function report must be completed that includes the method or
30.17 methods used to make the assessment. The assessment may be made
30.18 by a licensed inspection business or a qualified employee with

30.19 an inspector certification. A passing report is valid until a
30.20 new inspection is requested or if the hydraulic performance is
30.21 believed to have changed.

30.22 (4) Compliance with the system operational and
30.23 maintenance requirements must be determined. An operation and
30.24 maintenance report must be completed that includes the method or
30.25 methods used to make the assessment. The assessment must be
30.26 made by a licensed inspection business or a qualified employee
30.27 inspector.

31.1 (5) The verification of proper management of a
31.2 system must be conducted by a licensed operation business or
31.3 qualified employee operator if the system requires an operator.
31.4 A passing report is valid until a new inspection is requested
31.5 and becomes invalid if future required monitoring does not take
31.6 place or monitoring results indicate noncompliance. If required
31.7 maintenance is not up to date at the time of inspection, the
31.8 maintenance activities must be performed at the time of the
31.9 inspection and an assessment made by the inspector or operator
31.10 as to whether the system can again be in compliance, provided
31.11 required maintenance is performed in the future.

31.12 C. A certificate of compliance shall be based on the
31.13 results of the verifications in item B. The certificate of
31.14 compliance or notice of noncompliance must be signed by a
31.15 licensed inspection business or a qualified employee certified
31.16 as an inspector. The certificate or notice must be submitted to
31.17 the local unit of government with jurisdiction and the property
31.18 owner or owner's agent no later than 15 days after a compliance
31.19 inspection. The completed form must also be submitted to the
31.20 owner or owner's agent. The certificate of compliance is valid
31.21 for three years from the date of issuance, even if one of the
31.22 supporting reports expires before the three-year period, unless
31.23 an inspector finds evidence of noncompliance.

31.24 D. If a compliance inspection indicates that the
31.25 system is noncompliant, the notice must contain a statement to
31.26 that effect and specify what must be done to achieve compliance.

31.27 **Subp. 5. Seasonally saturated soil disagreements.**

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

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

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

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

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

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

32.19 committee must be created in cooperation with the commissioner.
32.20 (c) Obtain an opinion from a Minnesota
32.21 licensed professional soil scientist who is a certified SSTS
32.22 designer or inspector and who is independent of, and agreed upon
32.23 by, both parties.
32.24 (d) If options under unit (a) or (b) are not
32.25 viable, an opinion must be rendered under unit (c).
32.26 (4) If opinions rendered in subitem (2) or (3) do
32.27 not resolve the dispute, all initial and follow-up documents and
33.1 information generated must be submitted to the local unit of
33.2 government. The local unit of government shall take into
33.3 consideration all information and opinions rendered and make a
33.4 final judgment. The local unit of government shall render
33.5 findings of fact, conclusions of law, and findings setting forth
33.6 the reasons for any final decisions it renders.
33.7 B. If a documented discrepancy arises on the depth of
33.8 the seasonally saturated soil between an SSTS licensed business
33.9 and a local unit of government for SSTS design or compliance
33.10 purposes, all disputing parties shall follow the procedure
33.11 outlined in this item.
33.12 (1) The local unit of government and the licensed
33.13 business must meet at the disputed site in an attempt to resolve
33.14 differences.
33.15 (2) If the provision in subitem (1) does not
33.16 resolve differences, then one or more of the methods in item A,
33.17 subitem (3), unit (b) or (c), may be employed.
33.18 (3) If opinions in subitem (2) are not sought or
33.19 do not resolve the dispute, the local unit of government shall
33.20 take into consideration all information and opinions rendered
33.21 and make a final judgment. The local unit of government shall
33.22 render findings of fact, conclusions of law, and findings
33.23 setting forth the reasons for any final decisions they render.
33.24 C. Upon resolution of a dispute, amendments to
33.25 initial disputed documents containing the resolution shall be
33.26 made and submitted to the local unit of government and all other
33.27 parties involved.