

Minnesota Pollution Control Agency

Request for Comments on Planned Amendments to Rules Governing Subsurface Sewage Treatment Systems Inspections and Permit Requirements, *Minnesota Rules* chapters 7081 and 7082; Revisor's ID Number 04478

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (MPCA) is requesting comments on planned amendments to water rules in *Minnesota Rules* chapters 7081 and 7082. This rulemaking is referred to as the Subsurface Sewage Treatment Systems (SSTS) Inspections and Permit Requirements Rule. The MPCA is considering amendments to *Minnesota Rules* parts 7081.0020, 7081.0040, 7081.0130, 7082.0700, and possibly other parts of chapters 7081 and 7082 appropriate to the scope of this rulemaking effort, and requests comments on the potential amendments from affected or interested parties. Comments should be submitted in writing in accordance with the provisions of this notice under the Public Comment section below.

Subject of Rules. The MPCA requests comments on its possible amendments to rules governing SSTS inspections and permit requirements. The MPCA is considering rule amendments that clarify when a State Disposal System (SDS) permit is required rather than a local permit, and when tank pumping is required for completion of a compliance inspection on an existing SSTS.

Under existing rules, a facility can measure its actual wastewater flows or use “table values”—values stated in rule for various types and sizes of facilities—to design a new SSTS. However, in circumstances where the measurements taken show a flow less than the 10,000-gallon-per-day (gpd) permit threshold but table values indicate a flow greater than 10,000 gpd, an SDS permit would still be required. The revisions the MPCA is considering would modify the rules to allow an existing facility to use measured values to determine permit requirements, as well as a few other modifications that capture the actual wastewater flows introduced to the environment more accurately.

The MPCA is also considering changes to wording in the SSTS rules to require that a septic tank be pumped empty before an official inspection determining its integrity. The revisions under consideration will require the tank to be inspected through a maintenance hole while empty, with the following exceptions:

1. If an inspector knows ahead of time that a particular septic tank is not going to pass inspection for any reason, then pumping the tank is not required. However, a tank can only pass an inspection if it was inspected while empty; or
2. A tank may pass inspection without first being pumped if there is a tank integrity inspection report available that shows the tank has passed inspection (with the tank empty) within the past 3 years.

Plain-Language Summary of Where We Are in the Rulemaking Process. This request for comments is the MPCA's legal notice of its intention to begin rulemaking. This is the first of several opportunities for public comment and input on this project. At this stage, we do not have a draft rule; we want your feedback to inform us about the ideas described under the Subject of Rules section above. If you have other ideas related to this rulemaking that we need to consider, please submit them in writing. For example, we recognize that costs to regulated parties can be a concern with rulemaking, so if you have cost information or data related to this rulemaking that you wish to share with us to inform our decisions, please submit that information. Submitting your ideas and data at this early stage in rulemaking allows us more time to address issues that may come up, and helps to ensure informed decision-making on our part.

Parties Affected. These amendments to the rules would be most likely to affect owners of properties with SSTS and large subsurface sewage treatment systems (LSTS), MPCA-licensed SSTS professionals, local units of government, and related professional associations.

Statutory Authority. *Minnesota Statute* § 115.55, subd. 3 authorizes the MPCA to adopt rules “containing minimum standards and criteria for the design, location, installation, use, maintenance, and closure of subsurface sewage treatment systems.”

Public Comment. Interested persons or groups may submit comments or information on these possible rules in writing until **4:30 p.m. on February 20, 2018**. The MPCA will not publish a notice of intent to adopt the rules until more than 60 days have elapsed from the date of this request for comments. The MPCA does not plan to appoint an advisory committee for this rulemaking project.

In accordance with *Minnesota Statutes* § 14.128, the MPCA does anticipate that the rule amendments will require a local government to adopt or amend an ordinance or other regulation. Because of differences in local SSTS ordinances, it is possible that some county ordinances will require amendment under *Minnesota Statutes* § 115.55, subd. 2, which requires all counties to adopt ordinances that comply with revisions to the subsurface sewage treatment system rules within two years of the final adoption by the agency unless all towns and cities in the county have adopted the ordinances. Local governments may submit written information to the contrary.

The MPCA requests any information pertaining to the cumulative effect of the rule amendments with other federal and state regulations related to the specific purpose of the rule. *Cumulative effect* means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.

Rules Drafts. The MPCA does not anticipate that a draft of the rule amendments will be available before the publication of the proposed rules. Parties interested in being notified when the rule proposal is published and of other activities relating to this (or other MPCA rulemakings) are encouraged to register for email bulletins at <http://public.govdelivery.com/accounts/MNPCA/subscriber/new>.

Agency Contact Person. Written comments, questions, and requests for more information on these possible rule amendments should be directed to Katie Izzo, Rule Coordinator—Minnesota Pollution Control Agency, 520 Lafayette Rd. N, St. Paul, MN 55155-4194; Telephone: 651-757-2595; Toll-free: 1-800-657-3864; or email: katie.izzo@state.mn.us.

Alternative Format. Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request, please contact the agency contact person at the address or telephone number listed above.

NOTE: Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the Administrative Law Judge (ALJ) if and when a proceeding to adopt rules is started. The agency is required to submit to the ALJ only those written comments received in response to the draft rules after they are proposed. If you submit comments during the development of the rules and want to ensure that the ALJ reviews your comments, you should resubmit the comments after the rules are formally proposed.

Date

11/22/17

John Linc Stine, Commissioner
Minnesota Pollution Control Agency


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