

Minnesota Pollution Control Agency

REQUEST FOR COMMENTS on Possible Amendments to Rules Governing Drainage Holes Beneath Sewage Tank Operating Levels, *Minnesota Rules* chapter 7080; Revisor's ID Number R-04773

Overview. The Minnesota Pollution Control Agency (MPCA) is requesting comments on possible amendments to subsurface sewage treatment systems (SSTS) rules, *Minnesota Rules* (Minn. R.) chapter 7080. This rulemaking is referred to as the Drainage Hole SSTS Rule. The MPCA is considering amendments to the listed rule chapters and requests comments on the proposed amendments from affected or interested parties. See the [Comments](#) and [MPCA Contact Person](#) sections of this notice for information on how to submit comments.

This request for comments is the MPCA's legal notice of its intent to begin rulemaking. This is the first of several opportunities for public comment and input on this rulemaking. At this stage, we do not have a draft of the rule amendments; we want your feedback to inform us about the ideas described under the [Subject of Rules](#) section. If you have other ideas related to this rulemaking that we need to consider, please submit them in writing as well. 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 information 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. If the rules under consideration affect you in any way, the MPCA encourages you to participate in the rulemaking process.

See the [Alternative Format/Accommodation](#) and [MPCA Contact Person](#) sections of this notice for information on requesting this document in an alternative format.

Subject of Rules. The MPCA requests comments on its possible amendment of SSTS rules governing drainage holes beneath sewage tank operating levels. The MPCA is considering rule amendments allowing the installation of drainage holes on newly manufactured concrete sewage tanks to allow drainage of accumulated precipitation during storage on sewage tank manufacturers' lots. Minn. R. 7080.1990 subpart 1, item C, currently prohibits this practice by ensuring no pipe penetration points or openings exist in sewage tank exterior walls or tank bottoms below the tank liquid operating level. Specifically, the MPCA is considering amendments relating to sewage tank storage, transport and use, and watertightness testing as described in Minn. R. 7080.1990 subpart 1, item C, and Minn. R. 7080.2010 subpart 3. For this rulemaking project, the MPCA will not consider other changes to sewage tank prescriptive requirements outside of this scope.

The MPCA especially seeks input on the following items:

1. sewage tank precipitation management practices (i.e., snow and rain management for sewage tanks in storage);
2. methods to create, repair and seal drainage holes;
3. watertightness of repaired drainage holes throughout the anticipated design life;
4. any previous experiences with drainage holes below sewage tank operating depth;
5. potential costs associated with creating drainage holes vs. alternative precipitation management;
6. potential impacts to SSTS homeowners, including low-income communities, communities of color, Indigenous people, and others who bear disproportionate effects of pollution and environmental health disparities; and

7. impacts to local government unit program administration and inspection protocols.

The MPCA does not plan to appoint a specific advisory committee to comment on the rule amendments under consideration. The MPCA does not anticipate that the rule amendments will require a local government to adopt or amend an ordinance or other regulation under *Minnesota Statutes* section, 14.128; 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 effects of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules.

Parties Affected. These amendments to the existing rules would be most likely to affect concrete sewage tank manufacturers, licensed SSTs businesses, local units of government administering SSTs ordinances, owners of SSTs (including low-income homeowners and others in communities considered “areas of increased concern” for environmental justice), and the real estate industry.

Comments. Interested parties may submit written comments or information on these possible rules in writing until **4:30 p.m. on Thursday, December 22, 2022**. Submit written comments or information to the Office of Administrative Hearings (OAH) Rulemaking e-Comments website at <https://minnesotaoah.granicusideas.com>. Any questions about submitting comments via the Rulemaking e-Comments website should be directed to Denise Collins at the OAH, telephone 651-361-7875 or email denise.collins@state.mn.us.

If it is not possible to use the e-Comments website, comments may be submitted in person, via U.S. mail, or by facsimile addressed to Denise Collins, Office of Administrative Hearings Court Administrator, 600 North Robert Street, P.O. Box 64620, St. Paul, Minnesota 55164-0620 or at 651-539-0310 (fax). All comments received are public and will be available for review at the OAH.

The MPCA will not publish a Notice of Intent to Adopt Rules until more than 60 days have elapsed from the date of this Request for Comments.

NOTE: The MPCA will carefully consider all comments received in response to this notice. However, the 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 MPCA is required to submit to the ALJ only the written comments received in response to the draft rules after they are proposed with a Notice of Intent to Adopt Rules. 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.

MPCA Contact Person. The MPCA contact person is Rule Coordinator Katie Izzo at the MPCA, 520 Lafayette Road North, St. Paul, MN 55155-4194; telephone 651-757-2595; and email katie.izzo@state.mn.us. You may also call the MPCA at 651-296-6300 or 1-800-657-3864; use your preferred relay service.

1. During the public comment period associated with this Request for Comments:
 - a) Submit all comments in response to this notice as described in the [Comments](#) section of this Request for Comments.
 - b) Contact the MPCA contact person with clarification questions and requests for more information.
2. After the public comment period closes, please route communications to the following staff:

- a) Technical subject-matter questions: Cody Robinson, 651-757-2535 or cody.robinson@state.mn.us
- b) Rulemaking process questions: Katie Izzo, 651-757-2595 or katie.izzo@state.mn.us

Rules Drafts. The MPCA has not yet drafted the possible rule amendments. Persons interested in being notified when a draft of the rules is available and of other activities relating to this rulemaking are encouraged to register at http://public.govdelivery.com/accounts/MNPCA/subscriber/new?topic_id=MNPCA_485 (MPCA GovDelivery-Rulemaking: Drainage Hole SSTs).

Alternative Format/Accommodation. 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 [MPCA contact person](#).

Statutory Authority. *Minnesota Statutes* §116.07, subd. 4, authorizes the MPCA to adopt rules for the collection, transportation, storage, processing, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution; and for sewage sludge, addressing the intrinsic suitability of land, the volume and rate of application of sewage sludge of various degrees of intrinsic hazard, design of facilities, and operation of facilities and sites.



Katrina Kessler, Commissioner
Minnesota Pollution Control Agency

__October 20, 2022__
Date