



# Straight-Pipe System Law

## Guidance for Local Governments

Wastewater/Individual Sewage Treatment Systems #2.38 • June 2008

**T**his fact sheet provides guidance for local governmental units (LGUs) seeking the Minnesota Pollution Control Agency's (MPCA) involvement in correcting straight-pipe discharges within the LGUs jurisdiction.

### What is a straight-pipe discharge?

A straight-pipe discharge is a sewage disposal system that transports raw or partially settled sewage directly to a lake or stream, to a drainage system, or onto the ground. The MPCA estimates approximately 60,000 straight-pipe septic systems in Minnesota, with most straight-pipe systems in communities with a population of 1,000 or fewer.

### What is the law?

The Straight-Pipe Act of 2006, Session Law Chapter 224, was enacted in August 2006. It requires homeowners who do not correct straight-pipe discharges within ten months of notification to be subject to penalties of \$500 per month for each month of subsequent noncompliance.

As LGUs are the primary regulators for subsurface sewage treatment systems (SSTS) under Minn. Stat. § 115.55, the Straight-Pipe Act was added to Minn. Stat. § 115.55 to allow local governments to seek a MPCA-issued administrative penalty order (APO) to the homeowner to encourage compliance with SSTS regulations.

### What is the intent of the law?

The law provides an additional tool for LGUs to use in correcting straight-pipe discharges within their jurisdiction. It is focused primarily on individual homes; however, the law is not limited to this and could also be applied to community straight-pipe systems.

The MPCA recognizes that solutions for communities may require more time to implement than ten months. The MPCA may, in some cases, require that the community minimize discharge first and move steadily toward permanent solutions rather than imposing penalties. Minimizing discharges may mean installing holding tanks or some other solution that is mutually agreeable to both MPCA and the LGU.

### How has the prior law changed?

Minn. Stat. § 115.55 was amended to include:

#### “Subdivision 1. Definitions

(q) "Straight-pipe system" means a sewage disposal system that transports raw or partially settled sewage directly to a lake, a stream, a drainage system, or ground surface.”

“Subdivision 11. Straight-pipe systems; noncompliance. An inspector who discovers the existence of a straight-pipe system shall issue a noncompliance notice to the owner of the straight-pipe system and forward a copy of the notice

to the agency. The notice must state that the owner must replace or discontinue the use of the straight-pipe system within ten months of receiving the notice. If the owner does not replace or discontinue the use of the straight-pipe system within ten months after the notice was received, the owner of the straight-pipe system shall be subject to an administrative penalty of \$500 per month of noncompliance beyond the ten-month period. Administrative penalty orders may be issued for violations under this subdivision, as provided in section 116.072. One-half of the proceeds collected from an administrative penalty order issued for violating this subdivision shall be remitted to the local unit of government with jurisdiction over the noncompliant straight-pipe system.”

### How are penalties assessed?

Penalties are assessed by MPCA through a combination APO. This is sent to the system owner the day after the ten month deadline is missed; it contains a penalty fee for the prior month of noncompliance and an additional penalty if the system is not replaced or discontinued by the timeframe specified.

Combination APOs continue to be sent for each subsequent month of noncompliance until the system owner replaces or discontinues use of the system. Penalty fees accumulate for each combined APO sent.

While the MPCA issues the APO penalties, the system owner must follow all LGU requirements for required permits, new system design approval, inspections, and any additional local penalties which may be assessed.

### Can a system owner appeal?

System owners who are issued APO penalties have the right to appeal the case for reconsideration by a judge.

In the event of an appeal, MPCA initiates a process to bring the case before an Administrative Law Judge (ALJ) for a hearing with the plaintiff (MPCA) and the defendant (system owner). The ALJ then rules if the APO stands, is dismissed, or is modified.

If an appeal is pursued, LGUs and Inspectors can be requested or subpoenaed by the MPCA to appear at the hearing to provide their testimony about the case.

## What steps does the LGU need to follow to involve the MPCA?

Here is a suggested procedure.

### 1. Discovery

The compliance process begins when an inspector or LGU Qualified Employee:

- discovers a straight-pipe
- confirms that is an imminent threat to public health (ITPH)
- issues a Notice of Noncompliance (NON) to the homeowner
- sends copies to the LGU and the MPCA
  - The NON and ITPH must be appropriately indicated on the MPCA Inspection Form.

The LGU issues orders to the system owner identifying:

- the due date for compliance
- requirements to replace or discontinue the straight-pipe discharge by the due date

The LGU may also wish to include information on the availability of any funding assistance for upgrades.

The NON establishes the basis for the potential issuing of an APO by the MPCA, and the date the LGU or Inspector sends the NON starts the ten month clock.

### 2. Months one through eight

If the system is brought into compliance within this timeframe, the LGU or Inspector notifies the MPCA in writing of the compliance.

### 3. Month eight

If the straight-pipe discharge has not been replaced or discontinued within this time frame, the LGU or Inspector sends a second letter to the system owner clearly stating the system owner shall, by midnight on the due date, replace or discontinue the straight-pipe discharge and if this is not done by the due date, they will be referred to the MPCA for the initiation of enforcement action.

#### 4. Month nine

The LGU or Inspector prepares a case referral package for delivery to the MPCA. The case referral package includes:

- copies of the NON and eight month second notice letter
- any photos taken during the investigation with corresponding labeling and identification
- copies of any field notes from inspections or other supporting documentation written or received since the discovery date

During this time frame, from discovery through month nine, it is optional for the LGU to provide copies of the NON and eight month notice letter to the MPCA.

#### 5. Month ten

If the system owner still fails to replace or discontinue the straight-pipe discharge by the due date, the LGU or Inspector delivers the case referral package to the MPCA.

For the case referral package, copies of the NON and eight month notice letter are mandatory.

The MPCA can not begin the APO process until all of the background information and documentation is provided. All documentation must be mailed or faxed to the *MPCA staff person* assigned to the county that corresponds with your location.

#### 6. Month ten plus one day

The MPCA initiates the APO process.

Before the MPCA send the combined APO to the system owner, the LGU or Inspector must verify to the MPCA whether or not the discharge was replaced or discontinued by the ten month date.

#### 7. Month eleven and beyond

The MPCA will issue subsequent combined APOs until the system owner has completely satisfied all the required items.

#### Do you need additional information?

For more information on the MPCA's SSTS program, please visit our Web site at [www.pca.state.mn.us/programs/ists/](http://www.pca.state.mn.us/programs/ists/) or call us at 651-296-6300, or toll free at 800-657-3864.