



To: Minnesota Sea Grant

From: Terra Bowling, National Sea Grant Law Center

Re: Septic System Inspection Requirements in Minnesota (NSGLC-22-04-05)

Date: August 10, 2022

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### **Advisory Summary**

Minnesota Sea Grant contacted the NSGLC for information on what enforcement mechanisms are available for subsurface sewage treatment systems (SSTS) in Minnesota. Below is a brief description of the SSTS program in the state. Although there are state laws and regulations governing SSTSs in Minnesota, the state delegates inspection and enforcement to county governments.

### **Septic Systems in Minnesota**

Minnesota Stat. Ann. §115.55 et. seq. outlines the framework for SSTS regulation in Minnesota. As required by Minn. Stat. Ann. § 115.55(3)(a), the Minnesota Pollution Control Agency (MPCA) has developed regulations for the certification and licensure for SSTSs, including minimum standards and criteria for the design, location, installation, use, maintenance, and closure of SSTSs.<sup>1</sup> Under state law, counties must enact SSTS ordinances that meet the minimum criteria established by MPCA.<sup>2</sup> Municipalities are authorized but not required to adopt ordinances. The local ordinances may be more stringent than those established by the state. MPCA reviews the local ordinances to ensure local programs will be able to effectively implement SSTS criteria.<sup>3</sup>

### **Compliance and Enforcement**

Minn. R. § 7080.1500 establishes compliance criteria for SSTSs. In general, SSTSs must: 1) be protective of public health and safety; 2) be protective of groundwater; 3) be operated, managed, and meet performance standards according to its permit; and 4) have certain vertical separation of systems. A person who designs, installs, alters, repairs, maintains, pumps, services, inspects, or abandons all or part of a SSTS must comply with the applicable requirements, and local governments are authorized to enforce these requirements.<sup>4</sup>

State law requires inspections for newly installed or replacement systems and for existing systems.<sup>5</sup> For existing SSTSs, a certificate of compliance or notice of noncompliance must be signed by a qualified inspector and submitted to the local government and property owner no

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<sup>1</sup> Minn. R. §§ 7080-7083.

<sup>2</sup> *Id.* §§ 7082.0040-7082.0050. See requirements for local ordinances at Minn. R. § 7082.0100.

<sup>3</sup> *Id.* § 7082.0040.

<sup>4</sup> MINN. STAT. ANN. § 115.55 (4)(a-b).

<sup>5</sup> Minn. R. § 7082.0700.



later than 15 days following an inspection; a compliance certificate is valid for three years.<sup>6</sup> Local ordinances must establish requirements to upgrade, replace, repair, or discontinue use of noncompliant systems that present an imminent threat to public health or safety, fail to protect groundwater, or do not meet vertical separation requirements.<sup>7</sup> As noted above, local governments have authority to enforce the SSTS criteria, but state law does not provide specific enforcement mechanisms for noncompliant SSTSs. Because inspection and enforcement of SSTSs occur at the local level in Minnesota, enforcement may vary across the state.

Many states have a similar approach to as Minnesota, with state law outlining SSTS criteria and requiring implementation at the local level. For example, Ohio regulates SSTSs under Ohio Revised Code Ch.3718 and Ohio Administrative Code Ch. 3701-29; however, permitting, inspections, and enforcement are conducted by the local health districts. Minnesota and other states that wish to have more control over septic system enforcement could consider enacting state-level inspections or enforcement provisions.

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<sup>6</sup> Minn. R. § 7082.0700(4)(C). (Any SSTSs that receive sewage such as cesspools, drywells, leaching pits, or other pits, must also be inspected every three years. Minn. R. § 7080.2450.)

<sup>7</sup> Id. § 7082.0700(A-C).