



Guide to Subsurface Sewage Treatment System Disclosure at Property Transfer

What does the law require for Subsurface Sewage Treatment System (SSTS) disclosure?

Minn. Stat. §115.55, subd. 6, requires a property seller disclose, in writing, to the buyer how sewage generated at the property is managed. This applies whether the sewage goes to a permitted facility, or to an on-site SSTS.

The disclosure must be made by delivering a written statement to the buyer or transferee that:

- the sewage goes to a facility permitted by the agency, or
- the sewage does not go to a permitted facility, is therefore, subject to applicable requirements, and describes the system in use, including the legal description of the property, the county in which the property is located, and a map drawn from available information showing the location of the system on the property to the extent practicable. Additionally, if the seller or transferor knows that an abandoned SSTS exists on the property, the disclosure must include a map showing its location. In the disclosure statement, the seller or transferor must indicate whether the SSTS is in use and, to the seller's or transferor's knowledge, in compliance with applicable sewage-treatment laws and rules

Is a disclosure the same as a compliance inspection?

No. A SSTS disclosure is different than a compliance inspection. A disclosure describes, to the best of the property owner's knowledge, the location of a SSTS on the property and what condition it is in. A compliance inspection is conducted by a specifically trained and licensed individual to determine if the SSTS is in compliance with state regulations. A disclosure is *not* a compliance inspection and cannot be used as a substitute.

While state regulations do not require a compliance inspection prior to property transfer, many local ordinances, especially in shoreland areas, may have this requirement. Always check with your Local Government Unit (LGU) first to see if they have this requirement. Additionally, lending institutions may require compliance inspections for some properties.

What if the information is not disclosed or the seller provides false information?

Unless the buyer or transferee and seller or transferor agree to the contrary in writing before the closing of the sale, a seller or transferor who fails to disclose the existence or known status of an SSTS at the time of sale, and who knew or had reason to know of the existence or known status of the system, is liable to the buyer

or transferee for costs relating to bringing the system into compliance with the SSTS rules and for reasonable attorney fees for collection of costs from the seller or transferor. This action must be commenced within two years after the date on which the buyer or transferee closed the purchase or transfer of the real property where the system is located.

Need more information?

For more information on the Minnesota Pollution Control Agency's SSTS program, please visit our Web site at www.pca.state.mn.us/programs/ists/ or call us at 651-296-6300, or toll free at 800-657-3864, please ask for SSTS staff.





MINNESOTA POLLUTION CONTROL AGENCY
PRIVATE INDIVIDUAL SEWAGE TREATMENT SYSTEM DISCLOSURE

Property located at ___ in the City of ___, County of ___, State of Minnesota, legally described as follows ("the Property"): ___

Is there a ISTS (septic system or Individual Sewage Treatment System) on or serving the property? YES NO
If NO, sign the seller(s) statement at the bottom of this form.
If, YES, provide disclosure information below:

SPECIAL NOTES FOR BUYER(S) AND SELLER(S):

If fully and correctly completed, this disclosure form satisfies the requirements of Minnesota Statutes Section 115.55, subdivision 6. The intent is to provide the potential buyer information about the status and location of the ISTS without the services of an Individual Sewage Treatment System (ISTS) professional. The seller discloses the following information knowing that even though this is not a warranty, prospective Buyers may use this information to decide whether and on what terms to purchase the Property. Seller(s) authorizes anyone representing any Party(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

IT IS RECOMMENDED THAT BUYER(S) AND/OR SELLER(S) CONTRACT FOR THE SERVICES OF A LICENSED INSPECTOR OR QUALIFIED EMPLOYEE REGISTERED WITH THE STATE OF MINNESOTA FOR A COMPLIANCE INSPECTION OF THE ISTS, ACQUIRE A CERTIFICATE OF COMPLIANCE OR NOTICE OF NONCOMPLIANCE, AND PROVIDE FOR THE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER(S) AND SELLER(S) WITH RESPECT TO ANY ISTS DEFECTS.

A COMPLIANCE INSPECTION IS THE ONLY METHOD TO ADEQUATELY EVALUATE AN ISTS. A CERTIFICATE OF COMPLIANCE OR NOTICE OF NONCOMPLIANCE, NOT THIS DISCLOSURE FORM, ARE THE ONLY DOCUMENTS WHICH IDENTIFY A COMPLETE INSPECTION.

Unless the Buyer(s) and Seller(s) agree to the contrary in writing before the closing of the sale or property transfer, a seller who fails to disclose the existence or known status of an individual sewage treatment system at the time of sale, and who knew or had reason to know the existence or knows the status of the system, is liable to Buyer for costs relating to bringing the system into compliance with the individual sewage treatment system rules and for reasonable attorney fees for collection of costs from Seller. Any legal action under MN Stat. § 115.55 must be commenced within two years after the date on which Buyer closed the purchase of the real property where the system is located.

ISTS TYPE (Check appropriate ISTS component and indicate location on map below).

- Tank (s): Sewage tank, Aerobic tank, Pump tank, Holding tank
Soil Treatment System: gravel trench, gravelless trench, chamber trench, seepage bed, mound, at-grade
Other: alternative system, experimental system (identify type ___)*

Note: if the system is a type other than one listed above, the ISTS may not be in compliance with applicable requirements.

*Describe any special conditions or monitoring requirements associated with this type of system: _____

System type, if other than those listed: _____

Do alternative standards apply to the ISTS? YES NO

ISTS STATUS

When was the system installed? _____ Installer name/Phone: _____
Have the tank(s) been pumped? _____ If so, pumper name/Phone: _____
Frequency of pumping: _____
Tank size(s): _____ gallons or inside dimensions
Soil treatment area size(s): _____ square feet
Serves how many bedrooms? _____
Approximate Soil texture (clay, sand, loam) or estimated soil sizing factor, if known: _____
Is there a reserve area for an additional soil treatment system _____ (If so, indicate location on map)
Is the ISTS entirely within the Property boundary lines including setback requirements? _____
Is the system shared by more than one dwelling or other establishment? _____
If so, how many units on the system? _____
Annual fee? _____ Maintenance schedule? _____
Does the ISTS have a permit? State _____ Local _____
(Note: permits are required for systems designed to treat an average design flow over 10,000 gpd)
If so, indicate state entity and permit number: _____
Distance between nearest well and ISTS: _____ ft Depth of casings of all wells within 100 ft _____ ft
Have any bedrooms been added to the property since the ISTS was installed? _____ If yes, identify the date and number of bedrooms added: _____
Have there ever been any indications of slow drainage from plumbing fixtures? _____
Are there any known defects in the ISTS?
If yes, please explain: _____

COMPLIANCE CRITERIA

Has there ever been any evidence of:

Discharge of sewage to the ground surface	YES	NO
Discharge of sewage to a surface water	YES	NO
A seepage pit, drywell, cesspool or leaching pit	YES	NO
Less than three feet of vertical separation between the soil treatment system bottom and saturated soil or bedrock	YES	NO
Sewage backup into dwelling or other establishment	YES	NO
Situations with the potential to immediately and adversely impact or threaten public health or safety	YES	NO

Describe the evidence for all YES answers: _____

Were any of the YES answers resolved through upgrade, replacement, repair or other such methods? If so, describe the items resolved and the method of resolution: : _____

Describe any type of work in addition to that above which has been performed since you have owned the Property, identify who conducted the work and when: _____

Note: If you answered YES to any of the above questions without evidence of resolution, the ISTS is NOT in compliance with sewage treatment system laws and rules. Local units of government may also impose additional compliance criteria, such as the requirement to meet local ordinance at the time of construction. If any water using appliance or bedroom has been added to the Property, the system may no longer be in compliance with sewage treatment system laws and rules.

Has a Notice of Noncompliance ever been issued for the ISTS? _____ If yes, attach the notice and describe the resolution, if resolved: _____

Does the ISTS currently have a Certificate of Compliance? ____ If yes, attach the certificate or identify the date of the certificate and the ISTS professional who signed it: _____

ISTS LOCATION

ISTS located at ____ in the City of ____, County of ____, State of Minnesota, legally described as follows ("the ISTS"): ____

Provide a map showing property and ISTS: Please use the space below to sketch the real property being sold and the location of each ISTS on the Property. Include approximate distances from fixed reference points such as streets, buildings and landmarks. Indicate reserve soil treatment area, if available, and attach any as-built drawings, inspection reports, certificates of compliance and notices of noncompliance ever issued for the ISTS.

Does the ISTS meet applicable sewage treatment system laws and rules?

YES

NO

UNKNOWN

This disclosure is not a warranty or guarantee of any kind by the Seller(s) or any Agent(s) representing any Party(s) in this transaction, and is not a substitute for any inspections or warranties the Party(s) may wish to obtain. This information is a disclosure and is not intended to be part of any contract between the Buyer and Seller.

SELLER'S STATEMENT:

I/We, Seller(s) of the Property provide the Private ISTS Disclosure and Map and consider it true and accurate to the best of my/our knowledge and authorize disclosure of this information to prospective buyers.

SELLER DATE SELLER DATE

BUYER'S ACKNOWLEDGMENT (to be signed at time of purchase agreement):

I/We the Buyer(s) of the Property acknowledge receipt of the Private ISTS Disclosure and Map.

BUYER DATE BUYER DATE

GLOSSARY OF TERMS EXTRACTED FROM MINNESOTA RULES, CHAPTER 7080

(Please note that these definitions can be modified by local ordinance)

Subp. 3a. **Alternative standards.** "Alternative standards" means individual sewage treatment system standards that differ from technical standards and criteria, are not more restrictive, and adequately protect public health and the environment.

Subp. 4. **Alternative system.** "Alternative system" means an individual sewage treatment system employing methods and devices presented in part 7080.0910, subpart 3.

Subp. 4a. **Applicable requirements.** "Applicable requirements" means local individual sewage treatment system ordinances or, in areas without an ordinance to regulate individual sewage treatment systems, the requirements of this chapter.

Subp. 4d. **At-grade system.** "At-grade system" means a pressurized soil treatment system where sewage tank effluent is dosed to a drainfield rock bed which is constructed on original soil at the ground surface and covered by loamy soil materials.

Subp. 7. **Bedroom.** "Bedroom" means any room or unfinished area within a dwelling that might reasonably be used as a sleeping room.

Subp. 10a. **Certificate of compliance.** "Certificate of compliance" means a document written after a compliance inspection, certifying that a system is in compliance as specified under part 7080.0060, and signed by a qualified employee or licensee.

Subp. 11. **Cesspool.** "Cesspool" means an underground pit or seepage tank into which raw sewage is discharged and from which the liquid seeps into the surrounding soil, bedrock, or other soil materials.

Subp. 11a. **Chambered system.** "Chambered system" means a soil treatment system where sewage tank effluent is discharged to a buried structure creating an enclosed open space with the original soil surface to act as a surface for the infiltration of sewage tank effluent.

Subp. 16. **Dwelling.** "Dwelling" means any building or place used or intended to be used by human occupants as a single-family or two-family residence.

Subp. 16a. **Failing system.** "Failing system" means any system that discharges sewage to a seepage pit, cesspool, drywell, or leaching pit; any system with less than three feet of soil or sand between the system bottom and the saturated soil level or bedrock; and any system causing sewage backup into a dwelling or other establishment.

Subp. 17b. **Gravelless drainfield pipe.** "Gravelless drainfield pipe" means a distribution medium consisting of a corrugated distribution pipe encased in a geotextile wrap installed in a trench.

Subp. 19. **Holding tank.** "Holding tank" means a tank for storage of sewage until it can be transported to a point of approved treatment and disposal.

Subp. 19a. **Imminent threat to public health or safety.** "Imminent threat to public health or safety" means situations with the potential to immediately and adversely impact or threaten public health or safety. At a minimum, surface discharges or adversely impacted wells shall constitute an imminent threat.

Subp. 19b. **ISTS.** "ISTS" means an individual sewage treatment system as defined under subpart 21. Subp. 21. Individual sewage treatment system. "Individual sewage treatment system" means a sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, and using sewage tanks or advanced treatment followed by soil treatment and disposal. Individual sewage treatment system includes holding tanks and privies.

Subp. 22c. **Local ordinance.** "Local ordinance" means any ordinance enacted by the governing body of a local unit of government to regulate individual sewage treatment systems and/or any ordinance to regulate the issuance of permits or variances for the addition of a bedroom or bathroom on property served by an individual sewage treatment system.

Subp. 22d. **Local unit of government.** "Local unit of government" means a township, statutory or home rule charter city, or county.

Subp. 22e. **Lot.** "Lot" means a lot in a plat recorded in the office of the county recorder or registrar of titles or a parcel of land created and conveyed, using a specific legal description, for a building site.

Subp. 22f. **More restrictive standards.** "More restrictive standards" means the modification of this chapter with the intention of providing an additional measure of public health or environmental protection, additional margins of safety, or greater system longevity. More restrictive standards may place additional requirements on standard systems but may not eliminate the use of a standard system.

Subp. 24c. **Nonconforming system.** "Nonconforming system" means a failing system as defined in subpart 16a or a system not constructed in compliance with all applicable local standards adopted and in effect at the time of installation.

Subp. 24d. **Notice of noncompliance.** "Notice of noncompliance" means a document written and signed by a qualified employee or licensee after a compliance inspection which gives notice that an individual sewage treatment system is not in compliance as specified under part 7080.0060.

Subp. 25. **Other establishment.** "Other establishment" means any public or private structure other than a dwelling which generates sewage.

Subp. 28b. **Qualified employee.** "Qualified employee" means an employee of state or local government who conducts site evaluations or designs; installs, maintains, pumps, or inspects individual sewage treatment systems as part of employment duties and is registered on the ISTS professional register with specialty area endorsements applicable to the work being conducted. A qualified employee may be an apprentice if the individual has specialty area endorsements applicable to the work to be completed, has fulfilled the contractual requirement under part 7080.0815, subpart 1, item B or C, and has been issued performance restrictions.

Subp. 29a. **Saturated soil.** "Saturated soil" means the highest elevation in the soil where periodically depleted oxygen levels occur because of soil voids being filled with water. Saturated soil is evidenced by presence of soil mottling or other information.

Subp. 29b. **Seepage bed.** "Seepage bed" means an excavated area larger than 36 inches in width which contains drainfield rock and has more than one distribution pipe.

Subp. 30. **Seepage pit, or leaching pit, or dry well.** "Seepage pit, or leaching pit, or dry well" means an underground pit into which a sewage tank discharges effluent and from which the liquid seeps into the surrounding soil at a loading rate greater than 1.20 gallons per day per square foot or with a hydraulic head greater than 30 inches.

Subp. 32. **Setback.** "Setback" means a separation distance measured horizontally.

Subp. 33. **Sewage.** "Sewage" means any water-carried domestic waste, exclusive of footing and roof drainage, and chemically treated hot tub or pool water, from any industrial, agricultural, or commercial establishment, or any dwelling or any other structure. Domestic waste includes liquid waste produced by toilets, bathing, laundry, culinary operations, and the floor drains associated with these sources. Animal waste and commercial or industrial waste are not considered domestic waste.

Subp. 35. **Sewage tank.** "Sewage tank" means a tank meeting the criteria in part 7080.0130 and used in the treatment of sewage and includes septic tanks and aerobic tanks.

Subp. 42. **Soil textural classification.** "Soil textural classification" means the soil particle sizes or textural classification as specified in the Soil Survey Manual, Handbook No. 18, United States Department of Agriculture, 1993, incorporated by reference in part 7080.0030.

Subp. 43. **Soil treatment area.** "Soil treatment area" means the area of trench, at-grade rock bed, or seepage bed bottom which is in direct contact with the distribution medium of the soil treatment system.

Subp. 44. **Soil treatment system.** "Soil treatment system" means a system where sewage tank effluent is treated and disposed of into the soil by percolation and filtration, and includes trenches, seepage beds, drainfields, at-grade systems, and mound systems.

Subp. 45. **Standard system.** "Standard system" means an individual sewage treatment system specified in parts 7080.0125 to 7080.0170.

Subp. 45a. **SDS and NPDES permits.** "SDS and NPDES permits" means State Disposal System and National Pollutant Discharge Elimination System permits issued by the agency to regulate individual sewage treatment systems.

Subp. 45b. **Standard system.** "Standard system" means an individual sewage treatment system built in compliance with parts 7080.0600 to 7080.0910.

Subp. 46a. **Technical standards and criteria.** "Technical standards and criteria" means parts 7080.0020, 7080.0060 to 7080.0176, and 7080.0910.

Subp. 48b. **Trench.** "Trench" means an area excavated from 18 to 36 inches in width which contains drainfield rock or other distribution medium.