

FINAL PROPOSAL
Dated April 28, 2016

INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES, DOCKET NO. 58-0103-1501

The proposed rule was published in the Idaho Administrative Bulletin, January 6, 2016, Vol. 16-1, pages 200 through 207. DEQ recommends that the Board take the following action:

IDAPA 58.01.03

Section 003	ADOPT AS PROPOSED
Section 006	ADOPT AS REVISED
Section 009	ADOPT AS REVISED

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY
58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES

DOCKET NO. 58-0103-1501

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the Board of Environmental Quality (Board) and is now pending review by the 2017 Idaho State Legislature for final approval. The pending rule will become final and effective on July 1, 2017 unless prior to that date the rule is rejected in whole or in part by concurrent resolution in accordance with Idaho Code §§ 67-5224 and 67-5291.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that the Board has adopted a pending rule. This action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

DESCRIPTIVE SUMMARY: A detailed summary of the reason for adopting the rule is set forth in the initial proposal published in the Idaho Administrative Bulletin, January 6, 2016, Vol. 16-1, pages 200 through 207. After consideration of public comments, the rule has been revised at **Sections 006 and 009**. The remainder of the rule has been adopted as initially proposed. The Rulemaking and Public Comment Summary can be obtained at www.deq.idaho.gov/58-0103-1501 or by contacting the undersigned.

IDAHO CODE SECTION 39-107D STATEMENT: This rule regulates an activity not regulated by the federal government. Chapters 1 and 36, Title 39, Idaho Code, grant authority to the Board to adopt rules and standards to protect the environment and health of the state of Idaho for the installation of cottage site sewage treatment facilities and for the issuance of pollution source permits.

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year when the pending rule will become effective: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Tyler Fortunati at tyler.fortunati@deq.idaho.gov or (208)373-0140.

Dated this 1st day of June, 2016.

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**Revisions to Proposed Rule for Board Consideration, Docket No. 58-0103-1501
(dated April 28, 2016)**

The revisions made to the proposed rule are highlighted. Only those sections of the rule containing revisions are included.

006. INSTALLER'S REGISTRATION PERMIT AND SERVICE PROVIDER CERTIFICATION.

01. Permit and Certification Required. Every installer and service provider shall secure from the Director, an installer's registration permit. Service providers must also obtain a service provider's certification. Two (2) types of installer permits and one (1) type of service provider certification are available. (5-7-93)()

a. A standard and basic alternative system installer's registration permit is required to install all individual systems not listed under Subsection 006.01.b. (5-7-93)

b. A complex alternative system installer's registration permit is required to install evapotranspiration systems, extended treatment package systems, lagoon systems, large soil absorption systems, pressure distribution systems, intermittent sand filters, in-trench sand filter, sand mounds or other systems as may be specified by the Director. (5-7-93)()

c. A service provider certification is required to perform operation, maintenance, and or monitoring of complex alternative systems. ()

02. Examination. The initial issuance of the installer's permit and service provider certification shall be based on the completion of an examination, with a passing score of seventy (70) percent or more, of the applicant's knowledge of the principles set forth in this chapter these rules and the applicable sections of the Technical Guidance Manual. The examinations will be prepared, administered and graded by the Director. The installer examination and service provider examination shall be separate exams. (5-7-93)()

03. Permits and Certifications Required Annually. Registration permits and service provider certifications expire annually on the first (1st) day of January, and all permits and certifications issued thereafter will be issued for the balance of the calendar year. Additionally, installers and service providers shall attend at least one (1) refresher course approved by the state of Idaho, Department of Environmental Quality, be-attended every three (3) years. Individuals holding both a complex installer registration permit and service provider certification shall attend one refresher course for the complex installer registration permit and another course for the service provider certification. Installer and service provider refresher courses are not interchangeable. (5-7-93)()

04. Contents of Application.

a. Applications for installer permits and service provider certifications shall:

i. Be in writing;

ii. shall be Be signed by the applicant or by an officer or authorized agent of a corporation;

iii. shall e contain the name and address of the applicant;

iv. shall i indicate whether the permit is to be for:

(1) i installation of standard and basic alternative systems or for;

(2) i installation of standard, basic and complex alternative systems; or

(3) Installation of standard, basic and complex alternative systems and certification as a service

provider; and

v. shall e Contain the expiration date of the bond required by Subsection 006.05.

b. Additionally, for applicants seeking certification as a service provider, the application shall also contain annual documentation of manufacturer specific training, as required by Subsection 006.06.a. (5-7-93)()

05. Bond Required. At the time of application, all applicants, including those seeking a service provider certification, shall deliver to the Director a bond in a form approved by the Director in the sum of five thousand dollars (\$5,000) for a standard and basic alternative system installer's registration permit, or in the sum of fifteen thousand dollars (\$15,000) for standard, basic and complex alternative system installer's registration permit. The bond will be executed by a surety company duly authorized to do business in the state of Idaho and must run concurrent with the installer's registration permit ~~to~~. The bond shall be approved by the Director and must guarantee ~~ing~~ the installer or service provider's faithful performance of all work undertaken under the provisions of the installer's registration permit or service provider certification, or both. Any person who suffers damage as the result of the negligent or wrongful acts of the ~~registrant~~ installer or service provider or by ~~his~~ the installer or service provider's failure to competently perform any of the work agreed to be done under the terms of the registration permit or certification shall, in addition to other legal remedies, have a right of action in his own name on the bond for all damages not exceeding five thousand dollars (\$5,000) for standard and basic alternative systems or fifteen thousand dollars (\$15,000) for complex alternative systems or required operation, maintenance, and monitoring by certified service providers. The maximum liability of the surety and/or sureties on the bond, regardless of the number of claims filed against the bond, shall not exceed the sum of five thousand dollars (\$5,000) for standard and basic alternative systems or fifteen thousand dollars (\$15,000) for complex alternative systems or required operation, maintenance, and or monitoring by certified service providers. (5-7-93)()

06. Service Provider Responsibilities. All certified service providers who provide operation, maintenance, and or monitoring for any complex alternative system are responsible for compliance with each of these rules that are relevant to those services. Additionally, each certified service provider shall: ()

a. Obtain documentation of the completed manufacturer-specific training for of each system that is a-manufactured and packaged treatment system for which the service provider intends to provide operation, maintenance, or monitoring. Proper documentation includes a certificate or letter of training completion provided by the manufacturer. If a system manufacturer is no longer in business, that manufacturer-specific training is not required.()

b. Maintain a comprehensive list of real property owners who contracted with the certified service provider. The list shall include the current real property owner name, service property address, real property owner contact address, and subsurface sewage disposal permit number. This list shall be provided to the Director as part of the annual operation, maintenance, and monitoring reports for individual real property owners; and ()

c. Submit all operation, maintenance, and monitoring records in the form of an annual report for each individual real property owner with whom the service provider contracts to fulfill the real property owner's operation, maintenance, and or monitoring responsibilities required through the real property owner's subsurface sewage disposal installation permit as allowed in Subsection 005.14. The annual reports shall be provided to the Director by the timeframe specified in the Technical Guidance Manual for the specific complex alternative system for which operation, maintenance, and or monitoring is required. ()

067. Exemption. An installer's permit shall not be required for: (10-1-90)

a. Any person, corporation, or firm constructing a central or municipal subsurface sewage disposal system if that person, corporation, or firm is a licensed public works contractor as provided in Title 54, Chapter 19, Idaho Code, is experienced in the type of system to be installed and is under the direction of a professional engineer licensed in the state of Idaho; or (5-7-93)

b. An owner installing his their own standard or basic alternative systems. (5-7-93)()

~~078.~~ **Application Fee.** All applications shall be accompanied by payment of the fee specified in IDAPA 58.01.14, Section 120, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services". (5-7-93)

~~089.~~ **Grounds for Revocation.** Failure to comply with these rules shall be grounds for revocation of the permit or the certification, or both. (~~5-7-93~~)()

~~10. Transfer from Non-Profit Operation and Maintenance Entity to Certified Service Provider.~~ ()

~~a. Real property owners who want to install extended treatment package systems must retain a permitted installer and certified service provider. An easement granting general access to a non-profit operation and maintenance entity is no longer required for extended treatment package system installation permits.~~ ()

~~b. Beginning July 1, 2017, real property owners who had extended treatment package systems installed are not required to be members of non-profit operation and maintenance entities. To meet the operation, maintenance, and monitoring requirements of their extended treatment package systems, real property owners shall retain a certified service provider for their existing extended treatment package systems.~~ ()

(BREAK IN CONTINUITY OF SECTION

009. OTHER COMPONENTS.

01. Design Approval Required. Commercially manufactured blackwaste and wastewater treatment and storage components may not be used in the construction of a system unless their design is approved by the Director. (10-1-90)

02. Plan and Specification Submittal. Plans and specifications for all commercially manufactured individual and subsurface treatment and storage components will be submitted to the Director for approval. Plans and specifications will show or include as requested by the Director, detailed construction drawings, capacities, structural calculations, list of materials, evidence of stability and durability, manufacturers installation, operation and maintenance instructions, and other relevant information. (10-1-90)

03. Effect of Design Approval. The Director may condition a design approval by specifying circumstances under which the component must be installed, used, operated, ~~or~~ maintained, or monitored. (~~10-1-90~~)()

~~a. The Director shall specify the complex alternative systems that must undergo professionally managed operation, maintenance, service, and or effluent testing.~~ ()

~~b. Manufacturers shall not restrict the number of service providers trained in their products to perform required operation, maintenance, or monitoring as specified by the Director.~~ ()

~~c. Manufacturers may enter into agreements with certified service providers trained in their technology but shall not limit the service providers from being trained in the technology of other manufacturers.~~ ()

04. Notice of Design Disapproval. If the Director is satisfied that the component described in the submittal may not be in compliance with or may not consistently function in compliance with these rules, or that the manufacturer of the proposed system failed to comply with Subsection 009.03, the Director will disapprove the design as submitted. The manufacturer or distributor submitting the design for approval will be notified in writing of the disapproval and the reason for that action. (~~5-7-93~~)()