

**Negotiated Rule Draft No. 5**  
**Docket No. 58-0103-1901, Dated August 21, 2020**

This draft includes revisions based on review by the Division of Financial Management for compliance with [Executive Order No. 2020-01](#), Zero-Based Regulation. The revisions are highlighted in yellow.

DEQ is not requesting public comments on this draft. The next comment period will commence upon publication of the proposed rule in Idaho Administrative Bulletin on September 2, 2020.

**Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks**  
**IDAPA 58.01.03**

~~000. (RESERVED)~~

**0010. LEGAL AUTHORITY.**

Title 39, Chapter 1 and Title 39, Chapter 36, Idaho Code, grants authority to the Board of Environmental Quality to adopt rules and standards to protect the environment and the health of the State, for the installation of cottage site sewage treatment facilities and for the issuance of pollution source permits. Title 39, Chapter 1, Idaho Code, grants to the Director the authority to issue pollution source permits; charges the Director to enforce all laws, rules, regulations, and standards relating to environmental protection and health, and those relating to the storage, handling and transportation of solids, liquids and gases which may cause or contribute to water pollution, and authorizes the Department of Environmental Quality to review for approval the plans and specifications for all proposed waste treatment facilities prior to their construction. (5-7-93)

**0021. TITLE, SCOPE, CONFLICT AND RESPONSIBILITIES.**

**01. Title.** These rules are titled IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks.” (3-20-20)

**02. Scope.** The provisions of these rules establish limitations on the construction and use of individual and subsurface sewage disposal systems and establish the requirements for obtaining an installation permit and an installer’s registration permit. These rules apply to every individual and every subsurface blackwaste and wastewater treatment system in Idaho. These rules also establish general requirements for the handling, transportation and disposal of septic tank wastes and for obtaining a septic tank pumping permit. (3-20-20)

**03. Conflict of Rules, Standards, and Ordinances.** In any case where a provision of these rules is found to be in conflict with a provision of any state or local zoning, building, fire, safety, or health regulation, standard or ordinance, the provision that, in the judgment of the Director, establishes the higher standard for the promotion and protection of the health and safety of the people, shall prevail. (5-7-93)

**04. Responsibilities.** (7-1-93)

**a.** Every owner of real property is jointly and individually responsible for: (10-1-90)

**i.** Storing, treating, and disposing of blackwaste and wastewater generated on that property.(10-1-90)

**ii.** Connecting all plumbing fixtures on that property that discharge wastewaters to an approved wastewater system or facility. (10-1-90)

**iii.** Obtaining necessary permits and approvals for installation of individual or subsurface blackwaste and wastewater disposal systems. (10-1-90)

iv. Abandonment of an individual or subsurface sewage disposal system. (10-1-90)

b. Each engineer, building contractor, individual or subsurface system installer, excavator, plumber, supplier, and every other person, who for compensation shall design, construct, abandon, or provide any system or part thereof, is jointly and individually responsible for compliance with each of these rules that are relevant to that service or product. (5-7-93)

**002. REFERENCED MATERIAL.**

**01. NSF International.** The NSF International (NSF) NSF/ANSI 40: Residential Onsite Systems and NSF/ANSI 245: Nitrogen Reduction are referenced in these rules. The NSF/ANSI 40 and NSF/ANSI 245 are available at [www.nsf.org/services/by-industry/water-wastewater/onsite-wastewater](http://www.nsf.org/services/by-industry/water-wastewater/onsite-wastewater).

**02. Technical Guidance Manual for Individual Subsurface Sewage Disposal Systems (TGM).** The ~~Technical Guidance Manual for Individual Subsurface Sewage Disposal Systems~~ TGM is referenced in these rules and available at the Idaho Department of Environmental Quality, Water Quality Division, 1410 N. Hilton, Boise, ID 83706-1255, [deq.idaho.gov](http://deq.idaho.gov).

**003. DEFINITIONS.**

For the purposes of these rules, the following definitions apply. (5-7-93)

*(BREAK IN CONTINUITY)*

**XX. Extended Treatment Package System (ETPS).** An advanced subsurface package sewage treatment product that provides secondary wastewater treatment and/or tertiary wastewater treatment to septic tank effluent.

**XX. Manufactured Medium Sand.** Sand that meets the following gradation requirements:

**Manufactured medium sand allowable particle size percent composition.**

| <u>Sieve Size</u> | <u>Passing (%)</u> |
|-------------------|--------------------|
| <u>4</u>          | <u>95-100</u>      |
| <u>8</u>          | <u>80-100</u>      |
| <u>16</u>         | <u>50-85</u>       |
| <u>30</u>         | <u>25-60</u>       |
| <u>50</u>         | <u>10-30</u>       |
| <u>100</u>        | <u>2-10</u>        |
| <u>200</u>        | <u>&lt;2</u>       |

**XX. Proprietary Wastewater System Technology.** A manufactured product through which effluent flows and may be stored before infiltration.

**XX. Proprietary Wastewater Treatment System.** A subsurface sewage treatment system that incorporates proprietary wastewater system technology to provide additional treatment to a septic tank effluent system.

**004. GENERAL REQUIREMENTS.**

**01. Intent of Rules.** The Board, in order to protect the health, safety, and environment of the people of the state of Idaho establishes these rules governing the design, construction, siting and abandonment of individual and subsurface sewage disposal systems. These rules are intended to ~~insure~~ ensure that blackwastes and wastewater generated in the state of Idaho are safely contained and treated and that blackwaste and wastewater contained in or discharged from each system: (5-7-93)

a. Are not accessible to insects, rodents, or other wild or domestic animals; (10-1-90)

b. Are not accessible to individuals; (10-1-90)

- c. Do not give rise to a public nuisance due to odor or unsightly appearance; (10-1-90)
- d. Do not injure or interfere with existing or potential beneficial uses of the waters of the State. (10-1-90)

**(BREAK IN CONTINUITY)**

**07. Technical Guidance Committee (TGC).** The Director shall appoint a ~~Technical Guidance Committee~~ **TGC** composed of three (3) representatives from the seven (7) Health Districts, one (1) representative from the Department of Environmental Quality, one (1) professional engineer licensed in the state of Idaho and one (1) licensed installer. Initially two (2) committee members shall be appointed to each of one (1), two (2) and three (3) year terms. Appointments to vacancies thereafter shall be to three (3) year terms. (12-31-91)

**08. Duties of the ~~Technical Guidance Committee~~ TGC.** The ~~Committee~~ **TGC** shall maintain a ~~technical guidance manual which shall~~ **the TGM to** be used in the design, construction, alteration, operation, and maintenance of conventional systems, their components and alternatives. The ~~Committee~~ **TGC** shall review variances and commercially manufactured wastewater treatment components and systems at the request of the Director and provide recommendations on such variances and manufactured wastewater treatment components and systems. (10-1-90)

**09. ~~Technical Guidance Manual for Individual and Subsurface Alternative Sewage Disposal~~ TGM.** The ~~manual~~ **TGM** maintained by the ~~Technical Guidance Committee~~ **TGC** shall provide state-of-the-art technical guidance on alternative sewage disposal components and systems, soil type determination methodology and other information pertinent to the best management practices of individual and subsurface sewage disposal. (10-1-90)

**10. Alternative System.** If a standard system as described in these rules cannot be installed on a parcel of land, an alternative system may be permitted if that system is in accordance with the recommendations of the ~~Technical Guidance Committee~~ **TGC** and is approved by the Director as set forth in Section 009. (5-7-93)

**005. PERMIT AND PERMIT APPLICATION.**

**(BREAK IN CONTINUITY)**

**14. Operation, Maintenance, and Monitoring.**

**a.** The Director may require as a condition of issuing a permit, that specific operation, maintenance, and monitoring procedures be observed. Those procedures will be contained in the **installation** permit ~~application.~~ (10-1-90)

**b.** All operation, maintenance, and monitoring requirements of installation permits including effluent sampling shall be perpetual unless:

- i. The system is not installed;
- ii. The system is removed, abandoned, or replaced; or
- iii. The permit is amended or revoked by the Director.

**c.** If a ~~proprietary wastewater treatment~~ system gains ~~general~~ approval as described by the ~~Technical Guidance Manual~~ **TGM**, sampling requirements may be removed.

**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. (7-1-17)

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~~ ETPS, lagoon systems, large soil absorption systems, pressure distribution systems, proprietary wastewater treatment systems, intermittent sand filters, sand mounds, or other systems as may be specified by the Director. (7-1-17)

c. A service provider certification is required to perform operation, maintenance, or monitoring of ~~complex alternative systems~~ extended treatment package systems ETPSs and any other Director-identified complex alternative systems. (7-1-17)

(BREAK IN CONTINUITY)

**04. Contents of Application.** (7-1-17)

a. Applications for installer permits and service provider certifications shall: (7-1-17)

i. Be in writing; (7-1-17)

ii. Be signed by the applicant or by an officer or authorized agent of a corporation; (7-1-17)

iii. Contain the name and address of the applicant; and (7-1-17)

iv. Indicate whether the permit is to be for: (7-1-17)

(1) Installation of standard and basic alternative systems; (7-1-17)

(2) Installation of standard, basic and complex alternative systems; or (7-1-17)

(3) Installation of standard, basic and complex alternative systems and certification as a service provider; and (7-1-17)

v. Contain the expiration date of the bond required by Subsection 006.05. (7-1-17)

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. (7-1-17)

(BREAK IN CONTINUITY)

**06. Service Provider Responsibilities.** All certified service providers who provide operation, maintenance, 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: (7-1-17)

a. Obtain documentation of the completed manufacturer-specific training of each 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 and an expiration date of the manufacturer's certification. If a system manufacturer is no longer in business, that manufacturer-specific training is not required; (7-1-17)

b. Maintain a comprehensive list of real property owners who contracted with the certified service provider. ~~The list shall include~~ including 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~~ (7-1-17)

c. Notify the system owner in writing of any improper system function that cannot be remedied during the time of operation, maintenance, and monitoring services; and

ed. Submit all operation, maintenance, and monitoring records in the form of an annual report for each individual real property owner with for whom the service provider contracts agrees to fulfill the real property owner's operation, maintenance, or monitoring responsibilities required through the real property owner's subsurface sewage disposal installation permit as allowed in Subsection 005.14 009.03. The annual reports shall are to be provided to the Director by the timeframe specified in the Technical Guidance Manual TGM for the specific complex alternative system for which operation, maintenance, or monitoring is required. (7-1-17)

*(BREAK IN CONTINUITY)*

## **009. OTHER COMPONENTS.**

**01. Design Approval Required.** Commercially manufactured ~~blackwaste and~~ wastewater treatment ~~and storage~~ components and systems may must not be used in the construction of a subsurface sewage system unless their design is approved by the Director through the recommendation of the Technical Guidance Committee TGC as directed in Section 004. The Department has developed recommended standards and guidance for these systems in the Technical Guidance Manual TGM. Approval may be limited to those locations or conditions for which achievement of standards has been demonstrated. Commercially manufactured wastewater treatment components and systems may include but are not limited to: (10-1-90)

a. Extended treatment package systems ETPSs (e.g., aerobic treatment systems);

b. Proprietary wastewater treatment systems (e.g., proprietary wastewater system technology with specified sand);

c. Proprietary wastewater system technology (e.g., gravelless distribution products); and

d. Proprietary non-discharging systems (e.g., individual wastewater incinerators, composting toilets, or vault toilets).

**02. Plan and Specification Submittal.** Plans and specifications for all commercially manufactured ~~individual and subsurface~~ wastewater treatment ~~and storage~~ components and systems 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, lists of materials, evidence of stability and durability, performance standards, manufacturers' installation, operation and maintenance instructions, an installation inspection checklist, a list of all prior approvals from other states including any review or compliance related issues, and any other relevant information as requested by the Director. (10-1-90)

### **03. Extended Treatment Package Systems ETPSs.**

a. In addition to the items listed in Subsection 009.02, extended treatment package system ETPS plan and specification submittals shall must include:

i. A plan for training and certifying system installers and service providers under Section 006;

ii. An operation and maintenance manual which contains all operation and maintenance specified by the design engineer or manufacturer and the Department; and

iii. A quality assurance project plan which documents how sampling will occur if sampling is required by the Director for product approval and continued monitoring.

b. Manufacturers seeking approval of extended treatment package these systems for reducing total suspended solids (TSS) and carbonaceous biological oxygen demand 5-day (CBOD<sub>5</sub>) when used with residential strength wastewater must submit NSF/ANSI 40: Residential Onsite Systems approvals, reports, and associated data or equivalent third-party standards.

c. Manufacturers also seeking approval for reduction of total nitrogen (TN) must submit NSF/ANSI 245: Nitrogen Reduction approvals, reports, and associated data or equivalent third-party standards.

d. Design and installation of these systems must meet the following:

i. The effluent must be is discharged to a drainfield that meets meeting the requirements of a standard drainfield as directed in Section 008 or a Director-approved alternative.

ii. Separation between the bottom of the trench or bed to limiting layers, for systems approved under Subsection 009.03.b., must be shown to protect ground water quality if the distance deviates from the table in Subsection 008.02.c.

iii. The distribution laterals within the trench or bed shall meet the requirements of Section 008 or a Director-approved alternative.

iv. Extended treatment package system Tank access lids must be brought are to grade or above with a sealed riser and must be fitted with a secured lid for monitoring and maintenance.

v. Any extended treatment package system with If vertical separation distances that are reduced from the distances defined in the table in Subsection 008.02.c., must have a sampling port has to be which can installed to provide a representative sample of the effluent from the system.

e. Within thirty (30) days of completing installation of an extended treatment package system ETPS, the property owner shall provide certification to the health district from a representative approved by the manufacturer that the system has been installed and will operate in accordance with the manufacturer's recommendations. The health district shall not finalize the subsurface sewage disposal permit until the certification of proper installation and operation is received and includes information on the manufacturer, product, model number, and serial number of the extended treatment package system ETPS installed.

f. Property owners with an extended treatment package system ETPS installed on their property must have all operation, maintenance, and monitoring requirements specified in the permit completed by June 30th each year by a certified service provider in accordance with Section 006, including effluent monitoring if required by the permit. The certified service provider who completed operation, maintenance, and monitoring for the system as specified in the Technical Guidance Manual TGM must submit an annual report by July 31st of each calendar year demonstrating that the system is working as designed.

g. Permit requirements for extended treatment package systems ETPSs are transferable transfer with ownership changes. Before transferring ownership of a property with an extended treatment package system ETPS, the system owner must notify all transferees of the extended treatment package system ETPS operation, maintenance, and monitoring requirements. Within thirty (30) days of transferring ownership of a property with an extended treatment package system ETPS, the transferee must notify the health district of the new owner of the property.

#### 04. Proprietary Wastewater Treatment Systems.

a. Manufacturers seeking approval for proprietary wastewater treatment these systems for reducing total suspended solids (TSS) and carbonaceous biological oxygen demand 5-day (CBOD<sub>5</sub>) when used with residential strength wastewater must submit NSF/ANSI 40: Residential Onsite Systems approvals, reports, and associated data or equivalent third-party standards.

b. Manufacturers also seeking approval for reduction of total nitrogen (TN) must submit NSF/ANSI 245: Nitrogen Reduction approvals, reports, and associated data or equivalent third-party standards.

c. Proprietary wastewater system media utilized with a proprietary wastewater treatment system must:

i. Be constructed or manufactured from materials that are non-decaying and non-deteriorating and do not leach unacceptable chemicals when exposed to sewage and the subsurface soil environment;

ii. Support the distribution pipe and provide suitable effluent distribution and infiltration rate to the absorption area at the soil interface; and

iii. Maintain the integrity of the trench or bed. The material used, by its nature and manufacturer-prescribed installation procedure, must needs to withstand the physical forces of the soil sidewalls, soil backfill, and weight of equipment used in the backfilling.

**d. Design and installation of these systems must meet the following:**

**i.** The effluent ~~must be is~~ discharged to a drainfield that meets the required effective soil depth for standard drainfields as directed in Section 008.

**ii.** Separation between the bottom of the manufactured medium sand component of the trench or bed to limiting layers, ~~for systems approved under Subsection 009.04.a., must be shown to protect~~ ground water quality if the distance deviates from the table in Subsection 008.02.c.

**iii.** The distribution laterals within the trench or bed ~~shall~~ meet the requirements of Section 008 or a Director-approved alternative.

**iv.** ~~Products approved under Subsection 009.04.a. shall have d~~Drainfields sized based on the manufacturer's recommended minimum sizing requirement or the maximum daily flow of effluent divided by the hydraulic application rate for the applicable soil design subgroup, whichever is greater.

**v.** Pressure distribution, when used with a proprietary wastewater treatment product, is ~~required to be~~ designed by an Idaho licensed professional engineer.

**e.** A proprietary wastewater treatment system may be required to follow the same operation, maintenance, monitoring, and reporting requirements described in Subsection 009.03. ~~f. due to factors such as product complexity and/or site specific constituent reduction requirements.~~

**f.** Permit requirements for ~~proprietary wastewater treatment these systems are transferable transfer~~ with ownership changes. Before transferring ownership of a property with a proprietary wastewater treatment system, the system owner must notify all transferees of the ~~proprietary wastewater treatment~~ system operation, maintenance, and monitoring requirements. Within thirty (30) days of transferring ownership of a property with a ~~proprietary wastewater treatment the~~ system, the transferee must notify the health district of the new owner of the property.

**0305. Effect of Design Approval.** The Director may condition a design approval by specifying circumstances under which the component must be installed, used, operated, maintained, or monitored. (7-1-17)

**a.** The Director shall specify the complex alternative systems that must undergo professionally managed operation, maintenance, service, or effluent testing. (7-1-17)

**b.** Manufacturers shall provide training to a reasonable number of service providers to perform required operation, maintenance, or monitoring as specified by the Director. (7-1-17)

**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. (7-1-17)

**0406. 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. (7-1-17)

**07. Amendments or Revocations of Approval.** The Director may amend or revoke ~~approval of a commercially manufactured black waste or wastewater treatment and storage device any permit or system approved by the Department if it is determined that:~~

**a.** Approval was based on false or misleading information;

**b.** The material, technology, or design no longer achieves performance standards for which it was approved or does not meet the intent of the rules; or

**c.** The manufacturer is not meeting the requirements of these rules or conditions of the approval.