Dear Senators HEIDER, Brackett, Stennett, and
Representatives VANDER WOUDE, Amador, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Department of Environmental Quality:

IDAPA 58.01.03 - Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks - Proposed Rule (Docket No. 58-0103-1901).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 10/02/2020. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/30/2020.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the memorandum attached below.

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

Eric Milstead
Director

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Environment, Energy & Technology Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: September 16, 2020

SUBJECT: Department of Environmental Quality

IDAPA 58.01.03 - Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks - Proposed Rule (Docket No. 58-0103-1901)

Summary and Stated Reasons for the Rule

The Department of Environmental Quality submits notice of proposed rulemaking at IDAPA 58.01.03 - Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks. According to the department, the rulemaking was initiated in response to challenges made in enforcing and updating portions of the Technical Guidance Manual for Individual Subsurface Sewage Disposal Systems (TGM). The department states that the rules currently only specify the requirements for standard individual/subsurface sewage disposal systems to be installed in Idaho, while leaving the majority of the requirements for alternative/proprietary systems in the TGM. The department notes that if a standard system cannot be installed on a parcel, an alternative system may be permitted if it is approved by the director and in accordance with the recommendations of the Technical Guidance Committee as documented in the TGM. According to the department, this proposed rule revises the Individual/Subsurface Sewage Disposal System Rules and Rules for Cleaning of Septic Tanks, IDAPA 58.01.03, by adding into the rules requirements applicable to facilitate the permitting, design, and construction activities for alternative and/or proprietary systems currently in the TGM. The proposed rule also clarifies the operation and maintenance requirements currently required for all systems as well as service provider responsibilities and provides the basis under which approved systems may be revoked or amended.

The department states that the 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.

Negotiated Rulemaking / Fiscal Impact

The department notes that negotiated rulemaking was conducted.

Statutory Authority

The rulemaking appears to be authorized pursuant to Chapters 1 and 36, Title 39, Idaho Code.

cc: Department of Environmental Quality
Paula J. Wilson

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.03 – INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES AND RULES FOR CLEANING OF SEPTIC TANKS

DOCKET NO. 58-0103-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. The action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before September 16, 2020. If no such written request is received, a public hearing will not be held. Four public meetings were held during the negotiated rulemaking process.

DESCRIPTIVE SUMMARY: This rulemaking was initiated in response to challenges made in enforcing and updating portions of the Technical Guidance Manual for Individual Subsurface Sewage Disposal Systems (TGM) available at deq.idaho.gov. The rules currently only specify the requirements for standard individual/subsurface sewage disposal systems to be installed in Idaho, while leaving the majority of the requirements for alternative/proprietary systems in the TGM. Currently, if a standard system cannot be installed on a parcel, an alternative system may be permitted if it is approved by the Director and in accordance with the recommendations of the Technical Guidance Committee as documented in the TGM.

This proposed rule revises the Individual/Subsurface Sewage Disposal System Rules and Rules for Cleaning of Septic Tanks, IDAPA 58.01.03, by adding into the rules requirements applicable to facilitate the permitting, design, and construction activities for alternative and/or proprietary systems currently in the TGM. The proposed rule also clarifies the operation and maintenance requirements currently required for all systems as well as service provider responsibilities and provides the basis under which approved systems may be revoked or amended.

Health districts, subsurface sewage disposal system installers and manufacturers of subsurface sewage disposal systems as outlined in the TGM, conservation and environmental groups, counties, cities, and citizens of Idaho may be interested in commenting on this proposed rule. The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, DEQ intends to present the final proposal to the Idaho Board of Environmental Quality (Board) in November 2020 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2021 legislative session if adopted by the Board and approved by the Legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

NEGOTIATED RULEMAKING: The text of the proposed rule was drafted based on discussions held and concerns raised during negotiations conducted pursuant to Idaho Code § 67-5220. On May 31, 2019, DEQ posted notice of the negotiated rulemaking on its website. On June 5, 2019, the notice of negotiated rulemaking was published in the Idaho Administrative Bulletin, and a meeting was held on July 10, 2019. On September 4, 2019, a preliminary draft rule was posted on DEQ's website. Three additional meetings were held between September 2019 and April 2020. Stakeholders and members of the public participated by signing up for email notifications, attending the meetings, and submitting comments. Key information was posted on DEQ's website and distributed to persons who participated in the negotiated rulemaking.

All comments received during the negotiated rulemaking process were considered by DEQ when making decisions regarding the development of the rule. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management to review for compliance with Executive Order No. 2020-01, Zero-Based Regulation. Based on that review, DEQ has formatted the draft for publication as a proposed rule. DEQ is now seeking public comment on the proposed rule. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at deq.idaho.gov/58-0103-1901.

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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Peter Adams at peter.adams@deq.idaho.gov or (208) 373-0464.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. DEQ will consider all written comments received by the undersigned on or before September 30, 2020.

Dated this 2nd day of September, 2020.

Paula J. Wilson
Hearing Coordinator
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706-1255
Phone: (208) 373-0418
Fax: (208) 373-0481
paula.wilson@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0103-1901
(Only Those Sections With Amendments Are Shown.)

000. (RESERVED)

00~~1~~0. 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)

00~~2~~1. 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. ( )

02. Technical Guidance Manual for Individual Subsurface Sewage Disposal Systems (TGM). The 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, http://deq.idaho.gov. ( )

003. DEFINITIONS.

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

01. Abandoned System. A system which has ceased to receive blackwaste or wastewater due to diversion of those wastes to another treatment system or due to termination of waste flow. (10-1-90)

02. Alternative System. Any system for which the Department has issued design guidelines or which the Director judges to be a simple modification of a standard system. (10-1-90)

03. Authorized or Approved. The state of being sanctioned or acceptable to the Director as stated in a written document. (10-1-90)

04. Blackwaste. Human body waste, specifically excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. (10-1-90)

05. Blackwater. A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. (10-1-90)

06. Board. Idaho State Board Of Environmental Quality. (10-1-90)

07. Building Sewer. The extension of the building drain beginning five (5) feet outside the inner face of the building wall. (10-1-90)

08. Central System. Any system which receives blackwaste or wastewater in volumes exceeding twenty-five hundred (2,500) gallons per day; any system which receives blackwaste or wastewater from more than two (2) dwelling units or more than two (2) buildings under separate ownership. (10-1-90)

09. Construct. To make, form, excavate, alter, expand, repair, or install a system, and, their derivations. (5-7-93)

10. Director. The Director of the Idaho Department of Environmental Quality or the Director's designee or authorized agent. (10-1-90)

11. Existing System. Any system which was installed prior to the effective date of these rules. (5-7-93)

12. Expand. To enlarge any nonfailing system. (10-1-90)

13. 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. ( )

1~~3~~4. **Failing System**. Any system which exhibits one (1) or more of the following characteristics: (10-1-90)

a. The system does not meet the intent of these rules as stated in Subsection 004.01. (5-7-93)

b. The system fails to accept blackwaste and wastewater. (10-1-90)

c. The system discharges blackwaste or wastewater into the waters of the State or onto the ground surface. (10-1-90)

1~~4~~5. **Ground Water**. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (5-7-93)

1~~5~~6. **High Groundwater Level -- Normal, Seasonal**. High ground water level may be established by the presence of low chroma mottles, actual ground water monitoring or historic records. (5-7-93)

a. The normal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of six (6) weeks a year. (5-7-93)

b. The seasonal high groundwater level is the highest elevation of ground water that is maintained or exceeded for a continuous period of one (1) week a year. (5-7-93)

1~~6~~7. **High Water Mark**. The line which the water impresses on the soil by covering it for sufficient periods of time to prevent the growth of terrestrial vegetation. (10-1-90)

1~~7~~8. **Individual System**. Any standard, alternative or subsurface system which is not a central system. (10-1-90)

1~~8~~9. **Install**. To excavate or to put in place a system or a component of a system. (10-1-90)

~~19~~20. **Installer**. Any person, corporation, or firm engaged in the business of excavation for, or the construction of individual or subsurface sewage disposal systems in the State. (10-1-90)

2~~0~~1. **Large Soil Absorption System**. A large soil absorption system is a subsurface sewage disposal system designed to receive two thousand five hundred (2,500) gallons of wastewater or more per day, including

where the total wastewater flow from the entire proposed project exceeds two thousand five hundred (2,500) gallons per day but the flow is separated into absorption modules which receive less than two thousand five hundred (2,500) gallons per day. (5-7-93)

2~~1~~2. **Limiting Layer**. A characteristic subsurface layer or material which will severely limit the capability of the soil to treat or absorb wastewater including, but not limited to, water tables, fractured bedrock, fissured bedrock, excessively permeable material and relatively impermeable material. (10-1-90)

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

Manufactured medium sand allowable particle size percent composition.	
Sieve Size	**Passing (%)**
4	95–100
8	80–100
16	50–85
30	25–60
50	10–30
100	2–10
200	<2

( )

2~~2~~4. **Mottling**. Irregular areas of different color in the soil that vary in contrast, density, number and size. Mottling generally indicates poor aeration and impeded drainage. (5-7-93)

2~~3~~5. **New System**. A system which is or might be authorized or approved on or after the effective date of these rules. (5-7-93)

2~~4~~6. **Nondischarging System**. Any system which is designed and constructed to prevent the discharge of blackwaste or wastewater. (10-1-90)

2~~5~~7. **Permit**. An individual or subsurface system installation permit or installer's registration permit. (10-1-90)

2~~6~~8. **Pollutants**. Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a public nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, agricultural, recreational, aesthetic, or other beneficial uses. (10-1-90)

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

30. **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. ( )

2~~7~~31. **Public System**. Any system owned by a county, city, special service district, or other governmental entity or Indian tribe having the authority to dispose of blackwaste or wastewater; a municipal wastewater treatment facility. (10-1-90)

2~~8~~32. **Repair**. To remake, reform, replace, or enlarge a failing system or any component thereof as is necessary to restore proper operation. (10-1-90)

~~29~~33. **Scarp**. The side of a hill, canyon, ditch, river bank, roadcut or other geological feature characterized by a slope of forty-five (45) degrees or more from the horizontal. (10-1-90)

3~~0~~4. **Service Provider**. Any person, corporation, or firm engaged in the business of providing operation, maintenance, and monitoring of complex alternative systems in the state of Idaho. (7-1-17)

3~~1~~5. **Sewage**. Sewage has the same meaning as wastewater. (10-1-90)

3~~2~~6. **Soil Texture**. The relative proportion of sand, silt, and clay particles in a mass of soil. (10-1-90)

3~~3~~7. **Standard System**. Any system recognized by the Board through the adoption of design and construction regulations. (10-1-90)

3~~4~~8. **Subsurface System**. Any system with a point of discharge beneath the earth's surface. (10-1-90)

3~~5~~9. **Surface Water - Intermittent, Permanent, Temporary**. (7-1-93)

a. Any waters of the State which flow or are contained in natural or man-made depressions in the earth's surface. This includes, but is not limited to, lakes, streams, canals, and ditches. (10-1-90)

b. An intermittent surface water exists continuously for a period of more than two (2) months but not more than six (6) months a year. (10-1-90)

c. A permanent surface water exists continuously for a period of more than six (6) months a year. (10-1-90)

d. A temporary surface water exists continuously for a period of less than two (2) months a year. (10-1-90)

~~36~~40. **System**. Beginning at the point of entry physically connected piping, treatment devices, receptacles, structures, or areas of land designed, used or dedicated to convey, store, stabilize, neutralize, treat, or dispose of blackwaste or wastewater. (10-1-90)

~~37~~41. **Wastewater**. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, grey water or commercial or industrial pollutants; and sewage. (10-1-90)

~~38~~42. **Waters of the State**. All the accumulations of water, surface and underground, natural and artificial, public and private or parts thereof which are wholly or partially within, which flow through or border upon the state of Idaho. (10-1-90)

~~39~~43. **Water Table**. The surface of an aquifer. (10-1-90)

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 ~~i~~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)

02. Compliance with Intent Required. The Director shall not authorize or approve any system if, in the opinion of the Director, the system will not be (is not) in compliance with the intent of these rules. (5-7-93)

03. System Limitations. Cooling water, backwash or backflush water, hot tub or spa water, air conditioning water, water softener brine, groundwater, oil, or roof drainage cannot be discharged into any system unless that discharge is approved by the Director. (10-1-90)

04. Increased Flows. Unless authorized by the Director, no person shall provide for or connect additional blackwaste or wastewater sources to any system if the resulting flow or volume would exceed the design flow of the system. (10-1-90)

05. Failing System. The owner of any failing system shall obtain a permit and cause the failing system's repair: (10-1-90)

a. As soon as practical after the owner becomes aware of its failure; or (10-1-90)

b. As directed in proper notice from the Director. (10-1-90)

06. Subsurface System Replacement Area. An area of land which is suitable in all respects for the complete replacement of a new subsurface system disposal field shall be reserved as a replacement area. This area will be kept vacant, free of vehicular traffic and free of any soil modification which would negatively affect its use as a replacement disposal field construction site. (10-1-90)

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 TGC shall review variances and commercially manufactured wastewater treatment components and systems at the request of the Director and provide recommendations on such variances. ~~*(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. ~~*(5-7-93)*~~( )

005. PERMIT AND PERMIT APPLICATION.

01. Permit Required. Except as specified in Subsection 005.02 it shall be unlawful for any person to cause or to perform the modification, repair or construction of any individual or subsurface sewage disposal system within the state of Idaho unless there is a valid installation permit authorizing that activity. (12-31-91)

02. Exceptions to Permit Requirement. The activities listed in this subsection may be lawfully performed in the absence of a valid installation permit. They are, however, subject to all other relevant rules and regulations. (10-1-90)

a. Portable nondischarging systems may be installed where needed as temporary blackwaste or wastewater systems if they are properly maintained and if they are of a design which has been approved by the Director. (10-1-90)

b. Individual and subsurface systems may be repaired when needed as a result of clogged or broken solid piping or of malfunctions in an electrical or mechanical system. Such repair may not expand the system unless authorized by the Director. (10-1-90)

03. Permit Application. The owner of the system or the owner's authorized representative shall make application to the Director in writing and in a manner or form prescribed by the Director. (10-1-90)

04. Contents of Application. A permit application will be used to help determine if the proposed construction will be in conformance with applicable rules and regulations. Information required in the application may include, but is not limited to: (10-1-90)

a. The name and address of the owner of the system and of the applicant, if different; (10-1-90)

b. The legal description of the parcel of land; (10-1-90)

c. The type of establishment served; (10-1-90)

d. The maximum number of persons served, number of bedrooms, or other appropriate measure of wastewater flow; (10-1-90)

e. The type of system; (10-1-90)

f. The construction activity (new construction, enlargement, repair); (10-1-90)

g. A scaled or dimensioned plot plan including, if needed, adjacent properties illustrating: (10-1-90)

i. The location and size of all existing and proposed wastewater systems including disposal field replacement areas; (10-1-90)

ii. The location of all existing water supply system features; (10-1-90)

iii. The location of all surface waters; (10-1-90)

iv. The location of scarps, cuts, and rock outcrops; (10-1-90)

v. Land elevations, surface contours, and ground slopes between features of interest; (10-1-90)

vi. Property lines, easements, and rights-of-way; and (10-1-90)

vii. Location and size of buildings and structures. (7-1-93)

h. The plans and specifications of the proposed system which include: (10-1-90)

i. Diagrams of all system facilities which are to be made or fabricated at the site; (10-1-90)

ii. The manufacturer's name and identification of any component approved pursuant to Sections 007 and 009; and (12-31-91)

iii. List of materials. (10-1-90)

i. Soil description and profile, groundwater data, percolation or permeability test results and/or a site evaluation report; (10-1-90)

j. The nature and quantity of blackwaste and wastewater which the system is to receive including the basis for that estimate; (10-1-90)

k. Proposed operation, maintenance, and monitoring procedures to insure the system's performance and failure detection; (10-1-90)

l. Copies of legal documents relating to access and to responsibilities for operation, maintenance, and monitoring; (10-1-90)

m. A statement from the local zoning or building authority indicating that the proposed system would not be contrary to local ordinances; (10-1-90)

n. The signature of the owner of the proposed system and, if different, of the applicant; and (10-1-90)

o. Any other information, document, or condition that may be required by the Director to substantiate that the proposed system will comply with applicable rules and regulations. (10-1-90)

05. Basis for Permit Application Denial. The Director may deny a permit application if in the Director's judgment: (10-1-90)

a. The application is incomplete, inaccurate, or misleading; (10-1-90)

b. The system as proposed is not in compliance with applicable rules and regulations; (10-1-90)

c. The system as proposed would, when put into use, be considered a failing system; (10-1-90)

d. The design and description of a public system was not made by a professional engineer; (10-1-90)

e. Public or central wastewater treatment facilities are reasonably accessible. (10-1-90)

06. Notice of Denial. Upon denial of an application the Director shall notify the applicant of the reason for denial. (10-1-90)

07. Issuance of Permit. When, in the opinion of the Director the system as proposed will be in conformance with applicable rules and regulations, the Director shall issue an "Individual and Subsurface System Installation Permit". (10-1-90)

08. Application and Permit Valid for One Year. Unless otherwise stated on the application or permit, it shall become invalid if the authorized construction or activity is not completed and approved within one (1) year of the date of issuance. (10-1-90)

09. Permit Renewal. At the discretion of the Director, a permit may be renewed one (1) or more times upon request by the applicant or owner provided that the request is received by the Director prior to the permit's date of expiration. (10-1-90)

10. Immediate Effect of the Permit. A valid permit authorizes the construction of an individual or subsurface system and requires that the construction be conducted in compliance with plans, specifications, and conditions contained in the approved permit application. Any deviation from the plans, specifications, and conditions is prohibited unless it is approved in advance by the Director. (10-1-90)

11. Cottage Site Facility Certification. A valid permit shall constitute certification and approval for the purposes of Section 39-3637, Idaho Code. (10-1-90)

12. Existing Installation Permits. Individual and subsurface sewage disposal installation permits or other lot-specific approvals for systems issued prior to February 7, 1978, pursuant to Idaho Code Title 39, Chapter 1 and Title 39, Chapter 36, will become invalid one (1) year after written notice is given by the Director notifying the owner or holder of such a permit or approval that the permit or approval will no longer be valid unless construction or installation of the system provided for in the permit or approval is commenced within one (1) year after giving of the notice. This provision does not apply to certificates filed to satisfy a sanitary restriction pursuant to Section 50-1326, Idaho Code. (10-1-90)

13. Abandonment May Be Required. The Director may require as a condition for issuing a permit that the system be abandoned by a specified date or under specific predetermined circumstances. The date or circumstances will be established before the issuance of the permit and be contained in the permit application. These conditions may relate to a specific date, dwelling density, completion of a municipal system or other circumstances relative to the availability of central sewerage system services. (10-1-90)

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 system gains approval as described by the TGM, sampling requirements may be removed. ( )

15. As-Built Plans and Specifications. The Director may require as a condition of issuing a permit, that complete and accurate record drawings and specifications depicting the actual construction be submitted to the Director within thirty (30) days after the completion of the construction. Alternately, if the construction proceeded in compliance with the approved plans and specifications, a statement to that effect may be submitted. (10-1-90)

16. Permit Fee. All applications shall be accompanied by payment of the fee specified in IDAPA 58.01.14, Section 110, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services". (5-7-93)

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~~ ETPSs, 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~~ ETPSs and any other Director-identified complex alternative systems. ~~(7-1-17)~~( )

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 percent (70%) or more, of the applicant's knowledge of the principles set forth in 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. (7-1-17)

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, 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. (7-1-17)

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)~~( )

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. The bond shall be approved by the Director and must guarantee 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 negligent or wrongful acts of the installer or service provider or by 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 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, or 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, or monitoring by certified service providers. (7-1-17)

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~~e~~ing 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 ( )

~~e~~d. 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)~~( )

07. 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. Owners installing their own standard or basic alternative systems. (7-1-17)

08. 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)

09. Grounds for Revocation. Failure to comply with these rules shall be grounds for revocation of the permit or the certification, or both. (7-1-17)

10. Transfer from Non-Profit Operation and Maintenance Entity to Certified Service Provider. (7-1-17)

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. (7-1-17)

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. (7-1-17)

(BREAK IN CONTINUITY OF SECTIONS)

009. OTHER COMPONENTS.

01. Design Approval Required. Commercially manufactured ~~*blackwaste and*~~ wastewater treatment ~~*and storage*~~ components ~~*may*~~ and systems 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 TGC as directed in Section 004. The Department has developed recommended standards and guidance for these systems in the 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. 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, list 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. ETPSs. ( )

a. In addition to the items listed in Subsection 009.02, ETPS plan and specification submittals 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 these systems for reducing total suspended solids (TSS) and carbonaceous biological oxygen demand 5-day (CBOD5) 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 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 is discharged to a drainfield 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 protects ground water quality if the distance deviates from the table in Subsection 008.02.c. ( )

iii. The distribution laterals within the trench or bed meet the requirements of Section 008 or a

Director-approved alternative. ( )

iv. Tank access lids are to grade or above with a sealed riser and fitted with a secured lid for monitoring and maintenance. ( )

v. If vertical separation distances are reduced from the distances defined in the table in Subsection 008.02.c., a sampling port has to be installed to provide a representative sample of the effluent from the system. ( )

e. Within thirty (30) days of completing installation of an 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 ETPS installed. ( )

f. Property owners with an 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 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 ETPSs transfer with ownership changes. Before transferring ownership of a property with an ETPS, the system owner must notify all transferees of the ETPS operation, maintenance, and monitoring requirements. Within thirty (30) days of transferring ownership of a property with an 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 these systems for reducing total suspended solids (TSS) and carbonaceous biological oxygen demand 5-day (CBOD5) 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 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, 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 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 protects ground water quality if the distance deviates from the table in Subsection 008.02.c. ( )

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

iv. 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 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 these systems transfer with ownership changes. Before transferring ownership of a property with this system, the system owner must notify all transferees of the system operation, maintenance, and monitoring requirements. Within thirty (30) days of transferring ownership of a property with the system, the transferee must notify the health district of the new owner of the property. ( )

0~~3~~4. **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)

0~~4~~5. **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. The Director may amend or revoke any permit or system approved by the Department if: ( )

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. ( )