

IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.03 - INDIVIDUAL/SUBSURFACE SEWAGE DISPOSAL RULES

DOCKET NO. 58-0103-1501

NOTICE OF NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapters 1 and 36, Title 39, Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the meeting at one of the following locations. Participation by telephone and web conferencing will be made available to the public. For those who cannot participate by attending the meeting, information for submitting written comments is provided at the end of this notice.

MEETING SCHEDULE: The negotiated rulemaking meeting will be held as follows. Individuals interested in participating by telephone and web conferencing should contact the undersigned by October 20, 2015.

ORIGINATING LOCATION – LIVE MEETING

**DEQ State Office
Conference Center
1410 N. Hilton, Boise, Idaho**

October 22, 2015

9 a.m. to 12:30 p.m. Mountain Time

To make arrangements for individual participation
by telephone and web conferencing, contact Paula Wilson at
paula.wilson@deq.idaho.gov, (208)373-0418, by **October 20, 2015**

TELEPHONE AND WEB CONFERENCE LOCATIONS

**DEQ Coeur d'Alene Regional Office
2110 Ironwood Parkway
Coeur d'Alene, Idaho**

**DEQ Idaho Falls Regional Office
900 N. Skyline, Suite B
Idaho Falls, Idaho**

PRELIMINARY DRAFT: The preliminary draft of the rule can be obtained at www.deq.idaho.gov/58-0103-1501 or by contacting Paula Wilson at paula.wilson@deq.idaho.gov, (208)373-0418.

DESCRIPTIVE SUMMARY: This rulemaking has been initiated to create an effective and useful means of approving and overseeing service providers for DEQ and the health districts and will expand choices of service for private property owners.

Complex alternative septic systems are engineered and/or manufactured systems and products that contain many different mechanical components to achieve secondary wastewater treatment. Without complex alternative septic systems, an individual property owner's options for subsurface sewage disposal system installation may be extremely limited in many environmentally sensitive areas. It is important that complex alternative septic systems undergo a minimum of annual operation, maintenance, and monitoring by a qualified service technician that is familiar with the technology to ensure system functionality and efficacy. Without the proper operation, maintenance, and monitoring, these wastewater treatment systems do not achieve their designed treatment levels prior to discharge. Improper

wastewater treatment prior to discharge to the subsurface may result in degradation of Idaho's ground water resources where these systems are located.

Currently, DEQ's ability to approve qualified service technicians and ensure that they have baseline knowledge of the technology that they are servicing is limited because there are no state requirements supported by rule for the minimum qualifications, responsibilities, and approval of service providers for complex alternative treatment systems. DEQ is currently limited to approving service providers through guidance and has found that manufacturers of the treatment technology are limiting the number of service providers they are willing to train. The limited training of service providers by manufacturers under DEQ's current guidance system has resulted in a limited number of service providers who can conduct routine operation, maintenance and repair for private property owners.

Several private property owners have requested via public comment that DEQ develop an approval process for service providers that allows the property owner to have a larger base of service providers from which to choose. The private property owners also hope that an unlimited service provider system would help foster healthy and open competition for their business, resulting in better service and effective cost control for the provider's services. DEQ also received recommendation from its Technical Guidance Committee for Individual and Subsurface Alternative Sewage Disposal, authorized by IDAPA 58.01.03.004.07, to pursue a service provider based operation, maintenance, and monitoring model for complex alternative treatment units for septic systems during the committee's March and May 2015 meetings. The Idaho Attorney General's Office has advised that approval and oversight of service providers should be done under authorized agency rule.

DEQ is responding to the desires of the private property owners that have complex alternative treatment systems installed on their property and the Technical Guidance Committee for Individual and Subsurface Alternative Sewage Disposal by pursuing an amendment to IDAPA 58.01.03.006. The amendment to IDAPA 58.01.03.006 will allow DEQ to authorize individuals to be service providers for complex alternative treatment systems through the issuance of a complex installer's registration permit with a service provider certification. The rule amendment creates minimum application contents and responsibilities that service providers would have to meet.

The text of the rule will be drafted by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. Idahoans who own or purchase property that necessitates the installation of a complex alternative subsurface sewage disposal system and permitted installers may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in 2016 and then present the final proposal to the Idaho Board of Environmental Quality for adoption of a pending rule. If adopted by the Board, the rule will be reviewed by the 2017 Idaho Legislature.

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

For those who cannot participate by attending the scheduled meeting, written comments may be submitted by mail, fax or email at the address below. Written comments on the preliminary draft rule must be received by November 6, 2015. For information regarding submission of written comments on subsequent drafts of the negotiated rule, to receive copies of submitted written comments, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 7th Day of October, 2015.

Paula J. Wilson
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