



July 26, 1993

M E M O R A N D U M

To: Ken W. Lustig, Director of Environmental Health  
 Panhandle District Health Department,  
 Paul E. Guenther, Director of Environmental Health  
 North Central District Health Department,  
 Tom Goss, Director of Environmental Health  
 Southwest District Health Department,  
 Tom N. Turco, Director of Environmental Health  
 Central District Health Department,  
 Dan Kriz, Director of Environmental Health  
 South Central District Health Department,  
 Mark Lowe, Director of Environmental Health  
 Southeastern District Health Department,  
 Richard Horne, Director of Environmental Health  
 District 7 Health Department,

From: <sup>Burny</sup> Barry N. Burnell, State Septic System Coordinator

Re: IDAPA 16.01.03008,12. Failing Subsurface Sewage Disposal System  
 =====

The IDHW Board of Health has directed the Division to prepare a technical memorandum regarding the interpretation of the *Rules for Individual and Subsurface Sewage Disposal*, IDAPA 16.01.03008,12. Failing Subsurface Sewage Disposal System. Please share this memorandum with all staff actively engaged in the septic system program.

This rule, 16.01.03008,12. Failing Subsurface Sewage Disposal System, states:

If the Director determines that the public's health is at risk from a failed septic system and that the replacement of a failing subsurface sewage disposal system cannot meet the current rules, then the replacement system must meet the intent of the rules by utilizing a standard subsurface sewage disposal design or alternative system design as specified by the Director.

This section of rules was added to provide the health districts with a better justification when issuing non-conforming permits. A subsurface sewage disposal permit that does not comply with the rules is a non-conforming permit. In order for such a permit to be issued, the districts would technically be required to undertake the variance procedure and decide in favor of issuing the variance. It is not in the best interest of public health to require the property owner of a failed system to petition for a variance. The variance procedure would only delay correcting the failed system and further jeopardize public health. This process would also be an added expense the property owner does not need to bear.

The new Failing Subsurface Sewage Disposal System section requires the replacement system to be either a standard subsurface sewage disposal system or an alternative system design as specified by the Director. Dependant upon the site characteristics, soil type, depth to ground water, etc., the replacement permit may require the replacement of a standard system design with an approved alternative system design. Example scenarios are listed in the following table and described below:

Example	Failing System	Replacement System	Meets Rules and Guidelines	Failing System Rule Applies	Permit Issued
1	Std Sys	Std System	Yes	No	Std Sys
2	Std Sys	Std System	No	Yes	Std Sys *
3	Std Sys	Alternative	Yes	No	Alt Sys
4	Std Sys	Alternative	No	Yes	Alt Sys *
5	Alt Sys	Alternative	Yes	No	Alt Sys
6	Alt Sys	Alternative	No	Yes	Alt Sys *

Std Sys = Standard System

Alternative, Alt Sys = Alternative System Design

\* = Justification required for use of failing system rule.

Example 1; a standard system has failed and is being replaced with a standard system that meets all of the rules and guidelines. The failing system rule does not apply and the permit is issued as a standard system replacement permit.

Example 2; a standard system has failed and is being replaced with another standard system that does not meet all aspects of the rules or guidelines. The failing system rule does apply and a non-conforming permit is issued, only after justification, as a standard replacement permit.

Example 3; a standard system has failed and is being replaced with an alternative system that meets all of the rules and guidelines. The failing system rule does not apply and the permit is issued as an alternative system replacement permit.

Example 4; a standard system has failed and is being replaced by an alternative system that does not meet all aspects of the rules or guidelines. The failing system rule does apply and a non-conforming permit is issued, only after justification, as an alternative system replacement permit.

All replacement permits must first try to be issued as conforming permits as described in examples 1, 3, and 5. If the replacement system cannot meet the rules or guidelines, then the Health District must justify the issuance of a non-conforming permit under the new regulation. Write on the permit or attach a file note to it indicating which rule is in non-conformance and the reason the rule cannot be met. Non-conforming permits are only to be issued for failed replacement systems. All new systems must meet the rules and can only be issued conforming permits.