

# Negotiated Rulemaking

## **IDAPA 58.01.03**

### Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks

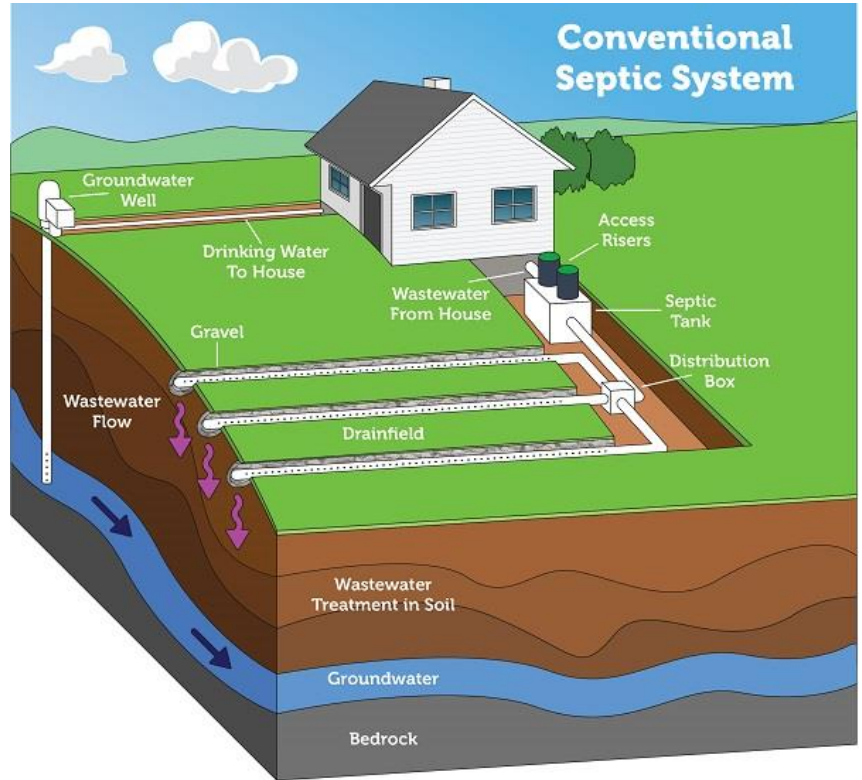


STATE OF IDAHO  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

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Surface and Wastewater Division

# Agenda

- Purpose and Objectives
- Rulemaking Process
- Zero-Based Regulation (EO 2020-01)
- Introduction to IDAPA 58.01.03
- Proposed Changes
- Rulemaking Timeline



Please note: Septic systems vary. Diagram is not to scale.

# 58.01.03 Negotiated Rulemaking

- Purpose
  - Introduction to upcoming rulemaking
  - Informational only
- Objectives
  - Provide background on Zero-Based Regulation
  - Provide overview of proposed changes to 58.01.03
  - Provide information on rulemaking process and timeline

# Rulemaking Process

- Notice of Intent to Promulgate Rulemaking
- Negotiated Rulemaking
- Publication of Proposed Rule
- DEQ Board Review
- Present to Legislature

# Executive Order No. 2020-01

## Zero-Based Regulation (ZBR)

- Purpose
  - Critical and comprehensive review of all rule chapters
  - Reduce regulatory burden
  - Increase clarity and ease of use
- Goals
  - Remove obsolete, outdated, unnecessary regulations
  - Simplify rules
  - Review each rule set every 5 years

# DEQ Rule Review Schedule

Chapter Name	2021	2022	2023	2024	2025
Rules for the Control of Air Pollution in Idaho			XXX		
Water Quality Standards					
Individual/Subsurface Sewage Disposal Rules				XXX	
Rules and Standards for Hazardous Waste	XXX				
Solid Waste Management Rules					XXX
Rules Regulating Underground Storage Tank Systems			XXX		
Idaho Rules for Public Drinking Water Systems			XXX		
Rules Regulating Swine Facilities	XXX				
Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended		XXX			
Ground Water Quality Rule					XXX
Rules for Administration of Water Pollution Control Loans					XXX
Rules for Ore Processing by Cyanidation					XXX
Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services				XXX	
Wastewater Rules					XXX
Recycled Water Rules		XXX			
Idaho Land Remediation Rules	XXX				

# IDAPA 58.01.03 – Summary

- Permitting and Compliance for:
  - Installation of subsurface sewage disposal (septic) systems
  - Installer registration
  - Onsite wastewater disposal and treatment products
  - Septic tank cleaning and septage disposal

# IDAPA 58.01.03 – ZBR Objectives

- Increase Clarity and Ease of Use
  - Remove definitions existing in Idaho Code
  - Consistency between definitions in other DEQ Rules
  - Reduce redundancy throughout document
  - Combine similar sections of rules
- Remove/Reduce Restrictive Language
  - “shall” replaced with “must” or “will”



# IDAPA 58.01.03 – Example Changes

~~10. — Director. The Director of the Idaho Department of Environmental Quality or the Director's designee or authorized agent. (3-31-22)~~

Removed  
because  
defined in  
code

## 000. 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. (3-31-22)~~

Simplifying  
and  
abbreviating  
names, titles

~~17. Gray Water. As defined in IDAPA 58.01.16, Wastewater Rules.~~

~~158. Ground Water Groundwater. Any water of the state beneath the surface of the earth in a saturated geological formation of rock or soil. As defined in IDAPA 58.01.11, Ground Water Quality Rule. (3-31-22)~~

# IDAPA 58.01.03 – Example Changes

## 005. PERMIT AND PERMIT APPLICATION.

01. **Permit Required.** Except as specified in Subsection 005.02 ~~it shall be unlawful for any~~ no person ~~to cause or to perform the modification~~ may modify, repair, expand, or ~~construction of~~ install any individual or subsurface sewage disposal system within the state of Idaho unless there is a valid installation permit authorizing that activity. (3-31-22)

02. ~~Exceptions to Permit Requirement~~ Permit Exceptions. The activities listed in this subsection may be lawfully performed in the absence of a valid installation permit. ~~They are, however, but are~~ subject to all other relevant rules and regulations. (3-31-22)

Remove  
needless  
words and  
clarify  
meaning



# IDAPA 58.01.03 – Summary of Proposed Substantive Changes

- Revised and added necessary definitions
- Permit applications good for 2 years
- Changed installer bond requirement to \$10,000 (basic) and \$30,000 (complex)
- Require a PE to submit septic tank designs for approval
- Changed minimum septic tank capacity to 1000 gallons for all applications
- Require all septic tanks to have risers to the surface
- Reduced drainfield setbacks to surface water
- Removed specific requirements for large septic tanks

# 58.01.02 Tentative Rulemaking Schedule

- Negotiated Rulemaking (09/2023 – 05/2024)
- Publication of proposed rule (09/2024)
- DEQ Board Review (11/2024)
- Present to Legislature (2025)
- Rules effective upon legislature adjournment (2025)

# Resources

- IDAPA 58.01.03 available at:  
<https://adminrules.idaho.gov/rules/current/58/index.html>
- DEQ rule making info: <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/>

# Next Steps

- Comment deadline: October 6, 2023
  - Send written comments to: [peter.adams@deq.idaho.gov](mailto:peter.adams@deq.idaho.gov)
- 2<sup>nd</sup> negotiated rulemaking meeting: November 2, 2023

# Questions?

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