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**To:** [Paula Wilson](#)  
**Subject:** Public Comment - Negotiated Rulemaking docket No 58-0103-1901  
**Date:** Wednesday, October 2, 2019 4:18:05 PM  
**Attachments:** [Comment on proposed rulemaking IDAPA 58.01.03 SCPHD 10-2-19.docx](#)

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Paula-

Attached are some comments for consideration.

Thanks.

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Thank you for the opportunity to comment on the proposed rules. In response to the proposed changes, we have a few comments and concerns:

- Sand:
  - If the intention of DEQ is to standardize the sand used in subsurface sewage disposal systems as material meeting the sieve analysis included in the definition of Manufactured Medium Sand, we are unsure how referencing ASTM standard C-33 adds to the Rules. On the contrary, we fear that it is potentially confusing, and suggest that references to ASTM C-33 could be removed and the intent and clarity would remain intact.
  
- Extended Treatment Package Systems (ETPS):
  - A possible alternative approach would be to define ETPS as a subset of proprietary systems. This would allow for broader requirement categories, which could simplify the handling of current, and future, technology advancements.
    - For example, 009.03 could be defined as proprietary systems requiring regular operations and maintenance beyond that which is required of a standard or basic alternative system, and 009.04 could cover systems which do not, without naming them as ETPS and/or proprietary systems.
  - 009.03.d and 009.04.f require standard wastewater disposal drain fields for ETPS and proprietary systems, however most ETPS and proprietary systems install a gravelless drain field, or a drain field made up of the proprietary material. Some possible suggestions to clarify this section would be to:
    - Specify the subsections of 008 that apply rather than citing the entirety of the section, or preferably,
    - Modify the definition of standard subsurface disposal facility to include gravelless systems.
  - 009.03.g requires a manufacturer's representative to certify the installation of an ETPS system. I agree that manufacturer's certifications of ETPS systems are invaluable, however there are instances when it may be more advantageous for that certification to occur more than 30 days following installation. For example, some large residences will not be completed and occupied until months, or even years, after the onsite wastewater system is installed, which could lead to months, or years, of inactivity before the system is put into use. It may be better to require the certification within 30 days of occupancy. We accept, however, that industry representatives can give better guidance regarding what would work best for their particular product.
  - Is the manufacturer's certification considered part of the authorized construction or activity referred to in 005.08?
    - If so, it would likely be unfeasible to place any requirement on a manufacturer's certification other than what is currently proposed (within 30 days of installation), or it could require renewing a subsurface installation permit for no reason other than to wait for the manufacturer's certification.
  - 009.03.h could be read to allow property owners to perform their own testing and/or maintenance. Is that the intent of this subsection? We are concerned that the

maintenance required by currently permitted ETPS is beyond the capabilities of most property owners.

- NSF 40/NSF 245:
  - It is our understanding that any system or product which meets NSF 245 standards will also meet NSF 40. 009.03.c seems to indicate that product manufacturers wanting approval as nitrogen reducing would be required to submit proof of both NSF 40 and NSF 245 testing to be approved.
  - We are concerned that requiring any product installation configuration different from that used during NSF 40 or NSF 245 testing alters the conditions under which the system will function. From a scientific and legal point of view, this brings into question whether the system will perform in the same manner as it did during NSF 40/245 testing, which could increase the liability borne by the State. For example, the minimum sand depth in 009.04.d is greater than that used during NSF 40/245 tests performed by certain proprietary systems. While more sand may be better in many circumstances, in others it could negatively impact onsite wastewater system function (increased chances of freezing, altered subsurface oxygen levels, microbial populations variations, etc.). If it is the intention of DEQ to accept NSF testing, we recommend that DEQ not place any additional installation requirements beyond those used during the NSF test.
  
- Proprietary System Inspection checklist
  - The nature of proprietary systems means that their design, function, and construction may vary greatly from one product to another. This can lead to confusion when it is time for an onsite inspection by the local health district. It would reduce confusion and errors on the part of the local health district staff if the manufacturers could propose, and DEQ approve, an inspection checklist for each specific system at the time of product approval.

Thank you for your time and attention.

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