

# **EHD-WG**



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## **Environmental Health Directors' Working Group**

In response to the Department of Environmental Quality's (DEQ) request for public comment upon the proposed changes to the Individual/Subsurface Sewage Disposal Rules (Rules), the Environmental Health Directors from the seven Idaho Public Health Districts state that:

- Technical Guidance Committee (TGC):
  - It is unclear what role, if any, the TGC or Technical Guidance Manual (TGM) would have under the proposed changes.
  - The balance of our comments assumes that the TGC and TGM will remain largely unchanged from their current state.
  - The EH Directors recognize the value of the TGC and TGM as sources of best-practice guidance and support their continued existence as such.
  - If the TGC and/or TGM cease to exist, how would new technologies or systems get added to the Rules?
  - The EH Directors recognize the value of a body like the TGC which brings representatives from both the private and public sector from all over Idaho together.
  - The EH Directors do not support any process of modifying existing onsite wastewater system approvals, or adding new technologies or systems to the Rules, that does not significantly involve the extensive wealth of knowledge possessed by the onsite wastewater system installers and Public Health District staff.
  
- Proprietary Onsite Wastewater Treatment:
  - While Idaho currently has a process for approving proprietary onsite wastewater treatment products through the Technical Guidance Committee (TGC), any enhancements we can make to the process from other states would be welcome.
  - The strength of these products and technologies is the variety of approaches to wastewater treatment. Unfortunately, that is also the main issue, because each product requires its own installation conditions and manual. This lack of consistency creates a burden for onsite wastewater system installers, and regulators, who are expected to understand and correctly apply the nuances of each product. The TGC has made a number of attempts to create general guidance to simplify these installation issues, but it has met with significant resistance from multiple sources.
  - To address this barrier to the use of proprietary onsite wastewater treatment products, we suggest that the Rule be modified to create broad categories of installation conditions, based upon defined levels of effluent treatment. Attempts to get too specific will stifle industry creativity and exacerbate the difficulty faced by field personnel.

- Any rule changes adopted should empower the TGC to develop guidance for these types of systems to ease the burden on, and provide direction to, onsite wastewater installers and regulators.
- Extended Treatment Package Systems (ETPS):
  - ETPS contain components which are subject to wear and tear and require regular maintenance to function optimally.
  - Virtually all ETPS in Idaho are installed in sensitive or sub-optimal areas (e.g. shallow groundwater, shallow soils, DEQ designated areas of nitrate concern, etc.) and at depths that will not provide protection of local ground water if they do not function properly.
  - Many years ago, Idaho recognized a need to require regular maintenance of ETPS installed in sensitive or sub-optimal areas to minimize the chances for groundwater contamination. The current Rules require each property owner who owns such a property to contract with a service provider to conduct annual maintenance of the ETPS and provide a report to the local Public Health District. Hundreds of ETPS systems throughout the state have not submitted a report in many years. While we understand that failing to provide a report to the Public Health District does not necessarily mean that an ETPS has failed and is contaminating groundwater, it is likely that most of the non-reporting systems have not received maintenance, and are therefore at an increased risk of contributing to groundwater contamination.
  - To date, current enforcement protocols have proven ineffective, in spite of the considerable amount of Public Health District effort expended. The Public Health Districts strongly suggest that the Rules either be modified to whatever extent is required to allow for effective and efficient enforcement of annual maintenance and reporting, or that the Rules be modified to disallow ETPS installation in Idaho.
  - Efficient and effective enforcement would, of necessity, require a funding mechanism. Currently, the financial cost of ETPS monitoring and enforcement actions is borne, almost exclusively, by the Idaho taxpayer.
  - One possible method of resolving both compliance and funding issues would be to modify the Rules to require operational permits for ETPS, and other onsite wastewater systems which, in the opinion of the TGC, require regular maintenance. These operational permits must be paid for and renewed annually, or on the frequency of maintenance required by the TGC, and renewal would only occur if maintenance reports were received, and any issues identified in the report are corrected. If the operational permit is not renewed, the Rules must empower DEQ or the Public Health Districts, to initiate enforcement activities which would be protective of public health and the environment.
- Reasonable Access:
  - The Rules currently state that an onsite wastewater installation permit may be denied if, “public or central wastewater treatment facilities are reasonably accessible,” (IDAPA 58.01.03.005.05.e). Reasonably accessible is not defined in the Rules. The Public Health Districts have requested a definition or guidance of this section of Rules for many years. This appears to be a perfect time to insert a definition of “reasonably accessible” into the Rules, or remove IDAPA 58.01.03.005.05.e. completely.

- Surface water separation distances:
  - The surface water separation distances currently in rule are applied to every parcel and property equally, regardless of the age of the parcel.
  - This has resulted in hundreds of parcels throughout the state which were created prior to the establishment of the current surface water separation distances which are now unbuildable because the parcel does not extend far enough from the surface water to meet the separation distances required by the Rules.
  - The Rules should be modified to provide for a method of development for parcels which pre-date the current surface water separation distances.
  - This could be done by modifying the Rules to create science-based minimum effluent pretreatment levels which, if met, would allow onsite wastewater treatment installations closer to surface water than currently allowed by the Rules.
  
- Very fine textured soils:
  - The current Rules will not allow for a discharging onsite wastewater disposal system in soils with more than 40% clay (sandy clay, silty clay, clay).
  - There are significant areas in Idaho which have such soils that currently have very limited options for development.
  - There are other states which allow discharging onsite wastewater disposal systems to be installed in soils with greater than 40% clay.
  - Using the best data available, Idaho should expand the range of soil types suitable for a discharging onsite wastewater disposal system to include soils with more than 40% clay.

The Environmental Health Directors from the seven Public Health Districts welcome DEQ's efforts to improve the Individual/Subsurface Sewage Disposal Rules and look forward to working with DEQ and the public throughout the process.