

8. A requirement that upon each sale of the property the buyer will sign an acknowledgement that they have reviewed the membership agreement and its requirements are understood.
9. The agreement should state that the current property owner must disclose the terms of the membership agreement prior to any sales transaction of the property.

1.6.4 Sampling Plans for Extended Treatment Package Systems

Nonprofit entities formed for the purpose of maintaining, servicing, and testing ETPSs shall develop a sampling plan for effluent testing (IDAPA 58.01.03.009.03). Sampling plans should contain the following elements:

1. Signed letter from the manufacturer of the treatment technology certifying that the sampling method provided is acceptable for their technology.
2. Sampling location and design that is located after the secondary treatment unit for both gravity and pressurized systems.
3. Sample collection, preservation, and transportation techniques and methods that conform to the latest edition of *Standard Methods for the Examination of Water and Wastewater* (Rice et al. 2012).
4. Method to collect all samples from a free-flowing effluent pipe. Hose or portable water sources may be used to induce flowing conditions but should be used as a last resort when access to a water source within the home is not available. If a hose or portable water source is used to induce a flowing condition, the water source should discharge into the cleanout between the structure and primary septic tank. Cross-connection and backflow prevention should be considered if hoses are used to induce flow.
5. Sample point cleaning and flushing procedures prior to sample collection.
6. Any necessary sampling device calibration techniques, equipment, and reagents.
7. Effluent field sample indicators that may be recommended for evaluation prior to grab sample collection. These indicators should provide indication that the treatment unit is operation properly.

1.7 Existing and Approved Systems, Abandoned and Undocumented Systems, and Nonconforming Systems

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1.7.1 Existing Systems

An existing subsurface sewage disposal system is a system installed prior to January 1, 1973, which was not permitted or approved by a health district (IDAPA 58.01.03.003.11). Existing subsurface sewage disposal system rights allow a property owner to use, repair, or replace the system for its original use and daily wastewater flow. Subsurface sewage disposal permits for the repair or replacement of an existing system must meet the current requirements of IDAPA 58.01.03 and the TGM. If it is not possible to repair or replace the existing system in full compliance with IDAPA 58.01.03, the replacement system must meet as many requirements of

IDAPA 58.01.03 as possible and meet the intent of the rules (IDAPA 58.01.03.004.01) for any requirements that will not be in full compliance with IDAPA 58.01.03.

Existing systems will be repaired or replaced to meet the current requirements of IDAPA 58.01.03. Some situations may not allow for the replacement to meet all of the requirements of IDAPA 58.01.03. In those nonconforming cases, there is no right to repair or replace an existing system with a system that does not meet the intent of the rules. Meeting the intent of IDAPA 58.01.03 may require that a property owner replace an existing system, upon the system's failure, with an alternative system. Some alternative systems may require engineering or electrical components depending on the site conditions and alternative system requirements necessary to meet the intent of IDAPA 58.01.03. Any repair or replacement of an existing system that will only meet the intent of the rules must be issued as a nonconforming permit as described in the DEQ memorandum "Failing Subsurface Sewage Disposal System," dated July 26, 1993, contained within the *Idaho Subsurface Sewage Disposal Standard Operating Procedures*. If the repair or replacement of an existing system is for a different use than originally permitted or for increased wastewater flows (system expansion), the permit must be in full compliance with IDAPA 58.01.03 and follow the DEQ-issued program directive "Permit Requirements for Increased Flows at Single Family Dwellings," dated April 15, 2010, contained within the *Idaho Subsurface Sewage Disposal Standard Operating Procedures*.

1.7.2 Approved Systems

An approved subsurface sewage disposal system is a system installed after January 1, 1973, which has been permitted, inspected, and approved by a health district (IDAPA 58.01.03.003.03). Approval is documented by the health district in the form of a signed final inspection document or a signed approval letter. Approved subsurface sewage disposal system rights are the same for use, repair, and replacement of a system as described in section 1.7.1 for existing systems.

1.7.3 Abandoned Systems

An abandoned system is defined by IDAPA 58.01.03.003.01. The termination of wastewater discharge to a subsurface sewage disposal system for more than 2 years is the time frame used to determine system abandonment. A health district's determination that a system is abandoned revokes any existing or approved system rights for the system and property. Abandoned systems may be used for subsurface sewage disposal if the property owner can demonstrate the following:

- The system meets the current requirements of IDAPA 58.01.03 and the TGM.
- The system is not failing as defined by IDAPA 58.01.03.003.13.

If there is not a previous subsurface sewage disposal permit, system authorization, or approval issued for the abandoned system, the health district may permit the system, provide authorization, or approve the system prior to its use.

1.7.4 Undocumented Systems

An undocumented subsurface sewage disposal system is a system that was installed after January 1, 1973, without a valid installation permit and record of a signed final inspection

document or signed approval letter. Undocumented systems not acted upon within 2 years of identification are considered existing systems. An undocumented system may be replaced with a new system that meets the requirements of IDAPA 58.01.03 and the TGM at any time, but the undocumented system must be abandoned once construction of the replacement system is completed unless the undocumented system is turned into an approved system. An undocumented and abandoned system may not be repaired, expanded, or placed into use unless it is first approved. To turn an undocumented system into an approved system, the property owner must complete the following:

- Submit a complete subsurface sewage disposal permit application and fee to the health district of jurisdiction.
- Have the system uncovered by a permitted installer or the property owner exposing the septic tank, effluent piping, and both ends of each drainfield trench.
- Excavate at least one test hole within 10 feet of the existing drainfield at the time the system is uncovered unless there is existing soil documentation for the property.
- Have the septic tank pumped by a permitted septic tank pumper so the health district can evaluate the tank for structural integrity and determination of the necessity of a leak test.
- Allow the health district to inspect the exposed subsurface sewage disposal system and test hole to verify the installation meets all requirements of IDAPA 58.01.03 and the TGM.

If the subsurface sewage disposal system is found to be in compliance with all the requirements of IDAPA 58.01.03 and the TGM, the health district will issue a subsurface sewage disposal permit for the system and provide the permit holder with written approval of the system in the form of a completed and signed final inspection document. If additional construction is required to bring the system into compliance with IDAPA 58.01.03 and the TGM, the health district will issue a subsurface sewage disposal permit for the necessary requirements. Written approval of the system will be provided once the permit requirements have been installed, inspected by the health district, and verified to meet the permit requirements.

1.7.5 Nonconforming Systems

If it is necessary to issue a nonconforming subsurface sewage disposal permit, the permit shall require that the system meet as much of IDAPA 58.01.03 as possible and the nonconforming permit requirement must meet the current intent of the rules (IDAPA 58.01.03.004.01). This may require the installation of an alternative system to meet separation distances or effective soil depths to features of interest or concern as described in IDAPA 58.01.03.007.17 and IDAPA 58.01.03.008.02.c-d.

A nonconforming system is a system that does not fully comply with all of the requirements of IDAPA 58.01.03. Nonconforming systems are typically existing systems or older approved systems that were installed after changes to IDAPA 58.01.03. For property owners to retain their existing or approved system rights in a nonconforming system, the system cannot be considered abandoned as described in section 1.7.3. All nonconforming systems must be brought into compliance with the intent of IDAPA 58.01.03 upon the repair, replacement, or enlargement of the system (IDAPA 58.01.03.004). The intent of the rules is best met by fully complying with the current requirements of IDAPA 58.01.03 at the time of permit issuance (IDAPA 58.01.03.004.02).

Some existing or approved systems may be located on properties that are no longer capable of meeting the requirements of IDAPA 58.01.03 due to changes in the rule requirements over time. If the property owner has maintained their existing or approved system right for the use, repair, or replacement of the system, they have the right to obtain a nonconforming repair or replacement permit for their property. All nonconforming permits shall be issued as described in the DEQ memorandum “Failing Subsurface Sewage Disposal System,” dated July 26, 1993, contained within the *Idaho Subsurface Sewage Disposal Standard Operating Procedures*. Issuance of a nonconforming permit shall only be for the original use and wastewater flow for the structure located on the property and neighboring features of interest (e.g., wells and water lines) shall take priority in separation distance requirements.

When issuing a nonconforming repair or replacement permit, an emphasis shall be placed on meeting the intent of IDAPA 58.01.03.004.01.d, preserving the existing or potential beneficial uses of the waters of the state. This emphasis arises out of the direction of Idaho’s legislative bodies as stated in Idaho’s water quality policy (Idaho Code §39-3601) and policy on environmental protection (Idaho Code §39-102).

1.8 Easement

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The “Individual/Subsurface Sewage Disposal Rules” (IDAPA 58.01.03) provide that every owner of real property is responsible for storing, treating, and disposing of wastewater generated on that property. This responsibility includes obtaining necessary permits and approvals for installing an individual or subsurface sewage disposal system. Therefore, a property owner wishing to install an individual or subsurface sewage disposal system must obtain a permit under IDAPA 58.01.03 and any other necessary approval for installing the system, including any authorization needed to install the system on another property that does not contain the wastewater-generating structure. This property may be owned by the same individual who owns the parcel with the wastewater-generating structure or another individual. Consistent with this requirement, IDAPA 58.01.03.005.04.1 requires a permit applicant to include in the application copies of legal documents relating to access to the system. This section provides guidance regarding the circumstances under which the health district should permit a system to be located on another property that does not contain the wastewater-generating structure and the legal documents that must be included in or with an application for such a system.

1. The health district will consider allowing the installation of a subsurface sewage disposal system on another property (e.g., lot or parcel). However, this option should be considered a last resort for use only when other practical solutions for subsurface sewage disposal are not available on the applicant’s property. In addition, the entire site (i.e., the area for both the primary and replacement drainfield) on the other property must be reviewed by the health district, and the site must meet all requirements of IDAPA 58.01.03.
2. The placement of an individual subsurface sewage disposal system on another property requires that an easement be in place before subsurface sewage disposal permit issuance. Easements are required anytime a subsurface sewage disposal system is proposed on another property regardless of property ownership. Easements must be obtained for each property, other than the wastewater-generating parcel that the application is submitted