



Idaho Department of  
Environmental Quality  
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# Memorandum of Understanding

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## The Department of Environmental Quality and The Public Health Districts

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### 1. Objective

The objectives of this Memorandum of Understanding (MOU) are to define roles of the Idaho Department of Environmental Quality (DEQ) and the Public Health Districts (Districts) and protect human health and the environment by: 1) maintaining and improving ground water and surface water quality in Idaho, 2) proper solid waste management, 3) proper wastewater management, and 4) assisting and supporting public water systems in the delivery of safe and reliable drinking water. This MOU sets forth a working arrangement of program delegation and program contract between the DEQ and the Districts to reduce duplicative efforts and to provide for a detailed description of program responsibilities and authorities.

### 2. Background

Through this MOU, the DEQ delegates certain authorities to the Districts. This memorandum expresses the roles and responsibilities, and clarifies the authority between the Districts and the DEQ. It is based on the desire of the Districts and the DEQ to provide the public with an effective environmental health delivery system based on utilization of agency core competencies. This approach prevents gaps and avoids duplication in services and strengthens the communication of both the Districts and the DEQ. The specific responsibilities and authorities are detailed in the program specific agreement sections of this MOU. The Public Water System program is by contract with the Districts and is not a delegated program. Where the term agency is used it can refer to either the Districts or to the DEQ.

This MOU is entered into pursuant to the authority set forth in Idaho Code § 39-414 and Idaho Code § 39-101 through § 39-130.

### 3. Authority and Intent

Whereas, the DEQ has responsibilities and rule making authority under the Idaho Environmental Protection and Health Act, Idaho Code § 39-101 et seq. and;

Whereas, these authorities provide for the agency's sole mission to be the protection of human health and the environment, and;

Whereas, the Districts were formed under the Public Health Districting Act, Idaho Code § 39-401 et seq., and;

Whereas, the Districts are directed to administer and enforce all state and district health laws, regulations, and standards with certain responsibilities to protect public health and the environment, and;

Whereas, Idaho Code § 39-414 authorizes the DEQ to delegate authorities and responsibilities to the Districts, and;

Whereas, pursuant to Idaho Code § 39-414, the Districts have the power to implement those authorities and responsibilities delegated by the DEQ, and;

Whereas, the DEQ and the Districts desire to avoid duplication and to prevent gaps in providing services to the citizens of the state, the DEQ and the Districts agree to the following sections.

## **4. General Program Agreements**

The intent of the general program agreements is to outline roles and responsibilities of the Districts and the DEQ in these broad program areas.

### **4.1 General Principles**

1. The DEQ and the Districts agree that communication and coordination on various topics is important. To further these principles, the Districts, as part of the Environmental Health Directors Work Group, will coordinate DEQ participation in periodic meetings, as appropriate, to ensure statewide consistency in all delegated programs.
2. The DEQ will notify the Districts of all public meetings and hearings pertaining to delegated programs, with the expectation that the Districts will participate as resources allow.
3. Non-compliance with statutes and administrative rules should be addressed first through education and technical assistance that is targeted to address the area of non-compliance. Enforcement is to be used only as the action of last resort when methods of education and assistance have failed to achieve compliance.

### **4.2 Rules, Standards, Technical Policies, and Guidelines**

1. The DEQ and the Districts will work cooperatively in the preparation of rules, standards, technical policies, or guidelines in those program areas where joint responsibilities exist.
2. The DEQ will send draft documents outlined in Item 1 to the Districts for a thirty (30) day, when feasible, review and comment period prior to any formal public process.
3. The Districts will forward to the DEQ proposed draft changes to rules, standards, technical policies or guidelines following the procedures outlined in Item 2 above. This is in addition to the district board procedures for adoption of regulations as set forth in Idaho Code § 39-416.
4. The DEQ, or the Districts, will provide copies to each other of final rules, standards, technical policies, or guidelines adopted. This procedure is in addition to the requirements of the Administrative Procedures Act. Also, the DEQ will provide specific direction to the Districts regarding the implementation of DEQ final rules,

- standards, technical policies, and guideline changes for programs delegated to the Districts. This direction will be provided to the Districts in a timely manner.
5. The Districts, if requesting a formal interpretation of rules or guidance, will submit the request to the appropriate DEQ Bureau Chief. The Bureau Chief, in coordination with the Attorney General's office as appropriate, will draft a response and share that with the Districts. For those interpretations with statewide applicability, the DEQ Bureau Chief will ensure that the response is in a memo form and can be posted online in keeping with Executive Order 2020-02. This does not include normal day to day communications between the Health Districts and DEQ staff regarding implementation of the rules.
  6. Upon initiation of an appeal of a District decision regarding a DEQ-delegated program, the District should notify the DEQ state office program contact of the administrative appeal for the DEQ's evaluation to ensure consistent application of the DEQ rules. The DEQ, when appropriate, will provide interpretation of the DEQ rules to the District for consistency.

### **4.3 Coordinating Enforcement Actions**

1. The Districts will take appropriate and timely enforcement actions as outlined within the specific protocols in this MOU. The DEQ may initiate enforcement actions after an enforcement referral package is received from the Districts.
2. The DEQ reserves the right to initiate enforcement actions if DEQ determines, after consultation with the Districts, that enforcement is necessary to protect public health and the environment. The DEQ will coordinate with the Districts in the event the DEQ determines it necessary to take such enforcement action.
3. The DEQ may request the Attorney General's Office provide legal consultation to the District's legal counsel when the District is preparing for cases in district court.
4. The DEQ will provide revisions of enforcement referral package templates, as appropriate, for subsurface sewage and non-municipal solid waste programs.

### **4.4 Management of Complaints**

This section outlines the actions the DEQ and the Districts will take when receiving complaints that are the responsibility of the other agency.

1. Complaints, which are the responsibility of the other agency, will be referred to the other agency within one working day. Either agency, upon receiving a telephoned complaint, will refer the caller to the appropriate agency. Written complaints will be forwarded to the appropriate agency by fax, e-mail or mail and include the complainant's contact information whenever possible.
2. In referring complaints, one agency will not commit the other agency to any particular action.
3. If the agency referring a complaint requests notification of what actions were taken by the other agency, that agency will provide the information to the referring agency.
4. The DEQ may request that the Districts provide initial support for complaints generated in remote areas.

## **4.5 Consultations and Technical Assistance**

This section defines when the agencies will provide technical assistance and consultation.

1. Each agency, within its resource limitations, will provide consultations, training, and technical assistance to the other upon request.
2. The DEQ will inform the Districts of pertinent training courses and vice versa, such as courses related to drinking water systems, subsurface sewage, solid waste, wastewater land application, hazardous wastes, septage, ground water quality, surface water quality, and source water protection.
3. The Districts will work with the DEQ to develop and present training courses of mutual interest.

## **4.6 Sharing and Dissemination of Information**

This section defines procedures to work cooperatively in sharing and disseminating information between agencies and to the public.

1. Agency Information Sharing
  - a. The DEQ, within its resource limitations, will assist the Districts in joint program communications, including the development of written or audio-visual materials.
  - b. The Districts will make recommendations for written or audio-visual material to the DEQ through district appointed program contacts.
  - c. The DEQ and the Districts will inform each other of correspondence received from other state or federal agencies which concern activities in the district or in the DEQ regional offices.
  - d. The DEQ and the Districts shall coordinate and encourage the sharing of geographic information system (GIS) data. The DEQ and the Districts agree to minimize the duplication of digital data entry and to exchange data and/or technical resources in support of each organization's mutual GIS interests.

2. Information to the Public.

Risk communication is an important public health aspect of sharing and disseminating information related to the protection of public health. The DEQ may seek assistance from the Districts to help, as resources in both agencies allow, deliver prepared critical public health messages regarding matters such as unhealthy air quality; blue-green algae blooms in surface waters; bacterial sample results exceeding the primary contact recreation standard, hazardous material releases, and mercury events with exposures to the public.

## **4.7 Coordination of Programs**

1. For coordination of environmental issues, Environmental Health Directors will help coordinate programs among the Districts as time and resources allow.
2. Representatives of the Districts will work with appropriate representatives of the DEQ when problems of mutual concern arise for which no agreement has been detailed in this document to determine a course of action.
3. Routine program meetings and discussions are desirable for both the Districts and the DEQ.

## **5. Protocols for Specific Programs**

The roles and responsibilities of DEQ and the Districts, and the delegation of authority from DEQ to the Districts, with respect to specific programs are set forth in the following listed Protocols that are attached to, and incorporated as a part of this MOU.

- A. Subsurface Sewage Disposal
- B. Public Water Systems and Individual Drinking Water Facilities
- C. Solid Waste Management
- D. Sanitary Restrictions
- E. Pumpable Waste
- F. Water Pollution/Water Quality

This MOU shall be executed by the DEQ Director and the Public Health District Directors and replaces the Memorandum of Understanding dated Feb. 5, 2013. The term of this agreement shall be on-going unless otherwise revoked by any one of the signatory agencies following thirty (30) days written notice from the Director of the DEQ or the Chairman of the Idaho Association of Public Health District Directors. This agreement may be amended or extended through mutual written agreement of the parties. This agreement, when accepted by each agency, will be effective on the date of the DEQ Director's signature.

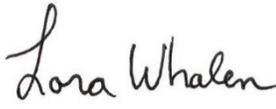
## 6. Signature Page

  
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Jess Byrne  
Director,  
Department of Environmental Quality  
Date: April 22, 2021

  
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Carol Moehrle  
Director,  
Public Health – Idaho North Central District  
Date: March 31, 2021

  
\_\_\_\_\_  
Russell A. Duke  
Director,  
Central District Health  
Date: April 1, 2021

  
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Maggie Mann  
Director,  
Southeastern Idaho Public Health  
Date: March 31, 2021

  
\_\_\_\_\_  
Lora Whalen  
Director,  
Panhandle Health District  
Date: April 20, 2021

  
\_\_\_\_\_  
Nikole Zogg  
Director,  
Southwest District Health  
Date: April 8, 2021

  
\_\_\_\_\_  
Melody Bowyer  
Director,  
South Central Public Health District  
Date: April 12, 2021

  
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Geri L. Rackow  
Director,  
Eastern Idaho Public Health District  
Date: April 12, 2021

## Protocol A: Subsurface Sewage Disposal

The DEQ delegates the roles and responsibilities for subsurface sewage disposal as outlined in this MOU pursuant to the DEQ rules and guidance to the Districts. The subsurface sewage program regulations are the Individual/Subsurface Sewage Disposal Rules and Rules for Cleaning of Septic Tanks, IDAPA 58.01.03 (SSD Rules). Guidance is provided in the Technical Guidance Manual for Individual/Subsurface Sewage Disposal (TGM) and in the Nutrient Pathogen Evaluation Program for On-site Wastewater Systems.

The DEQ will:

1. Review plans and specifications for the following and provide written comment:
  - a. “Public Systems,” as defined in the SSD Rules.
  - b. “Large Soil Absorption Systems” as defined in the SSD Rules.
  - c. As requested by the Districts, the collection system only for those Central Systems that receive less than two thousand five hundred (2,500) gallons per day of blackwaste or wastewater, but that receive the blackwaste or wastewater from more than two (2) dwelling units or more than two (2) buildings under separate ownership. Collection system is the portion of the wastewater system or treatment facility in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/lift stations and other appurtenances.
  - d. As requested by the Districts, TGM approved Alternative Systems in which the drainfield exceeds 1,500 square feet.
  - e. Septic Tank Effluent Pump (STEP) and Septic Tank Effluent Gravity (STEG) systems that discharge to wastewater collection systems with discharges to surface water or subsurface sewage disposal systems. The DEQ’s review will include the portions of the system downstream from the septic tank component(s). The Districts will be responsible for permitting and inspecting the septic tank component(s) of the system.
2. For any of those systems for which the DEQ reviews plans and specifications as set forth above, it shall provide comments to the Districts within 42 days of the date the plans and specifications were submitted to the DEQ. These comments are for use by the Districts in issuing or denying the individual or subsurface sewage disposal permits.
3. Review Alternative Systems that are not in the TGM through the Technical Guidance Committee and make decisions regarding the approval of such systems as provided in the SSD Rules.
4. Review all experimental system design plans and specifications, prior to the District issuing a permit.
5. Review the design of commercially manufactured blackwaste and wastewater treatment and storage components as provided in the SSD Rules, IDAPA 58.01.03.009 in conjunction with the Technical Guidance Committee.
6. Review and comment on standard operating procedures for Idaho Subsurface Sewage Disposal (revised 2018) upon request.
7. Periodically review subsurface sewage disposal system permit language upon request and provide written feedback.

8. Require nutrient-pathogen studies to be completed for Central Systems, and subdivisions with less than 5 acres per buildable lot, in nitrate priority areas and for Large Soil Absorption Systems.
9. When requested by the Districts, evaluate nutrient-pathogen studies for developments where the Districts have received an NP study. Provide written direction to the Districts concerning permitting limits associated with the proposed Central System or Large Soil Absorption System. Any pertinent comments or constraints will be defined in the documentation, which may include required minimum effluent quality, restrictions to drainfield and or well locations, or rejection of the project in its proposed configuration.
10. Perform annual audits assessing the Districts' performance in conducting site evaluations, issuing subsurface sewage disposal system permits, and completing inspections of subsurface sewage disposal systems. This will be conducted by the DEQ On-site Wastewater Coordinator.
11. Provide information on requirements for shallow injection wells and permitted systems with 20 or more people to Districts.
12. Provide periodic training on the SSD Rules to the Districts, and provide support for the Districts' Continuing Education training classes for the Septic System Installer's Licensing program at the request of the Districts.
13. Issue wastewater reuse permits for subsurface distribution of Class A through D wastewater under the Recycled Water Rules (IDAPA 58.01.17).
14. Post a list of installer registration permits on the DEQ webpage.

The Districts will:

1. Make permitting decisions pursuant to the SSD Rules and the TGM for all systems covered by the SSD Rules. Review of plans and specifications for those systems not reviewed by the DEQ, including:
  - a) the septic tank and drainfields for Central Systems as defined in IDAPA 58.01.03.003;
  - b) all other Standard Systems that are not Central, Public, or Large Soil Absorption Systems; and
  - c) approved Alternative Systems.
2. Perform onsite inspections of installed systems where a permit was issued by the Districts according to the most current SSD Rules, TGM, and Standard Operating Procedures. In rare circumstances when the Districts cannot be present for inspections of installed systems, the Districts may direct the installer to perform the inspection. The districts will ensure that any installer inspection of systems will include all necessary documentation.
3. Determine the site suitability for proposed subsurface sewage disposal systems as specified in the SSD Rules. The Districts shall provide the DEQ with a copy of the site evaluation report and subsurface sewage disposal application for each proposed Large Soil Absorption System.
4. Issue permits to installers of subsurface sewage disposal systems in accordance with the SSD Rules and the TGM. Send to the DEQ by March 1 a list of the installer registration permits and post on the Districts webpage a list of the installer registration permits issued or link to the DEQ webpage.

5. Provide Seepage Pit Permit documentation, as required in the SSD Rules, 58.01.03.008.11, to the DEQ.
6. Provide available information from the Districts' electronic databases on new and replacement subsurface sewage disposal permits to assist the DEQ in performing source water assessments or in assisting communities or public water systems in developing source water protection plans. The information provided to the DEQ will be limited to information that exists in these databases. New or unique data collection activities will not be required of the Districts to fulfill this commitment.
7. Issue tank only permits for projects with discharges to subsurface sewage disposal systems and not issue tank only permits for projects that discharge to municipal wastewater collection systems with land application or NPDES/IPDES permits.
8. Provide the DEQ with a copy of the Idaho Subsurface Sewage Disposal Standard Operating Procedures.

#### Enforcement—Sewage Disposal

1. The Districts will take appropriate action to enforce the SSD rules, including by taking all necessary administrative enforcement actions.
2. The Districts will be responsible for defending all administrative appeals of decisions by the Districts, which are brought before the Districts and the Districts' Boards of Health. The Districts will ensure all administrative appeals follow the appropriate administrative appeal process.
3. After exhausting all administrative remedies, the Districts may refer an enforcement matter related to implementing and enforcing the SSD rules to the local county prosecutor's office or to the DEQ. If referred to the DEQ, the Districts must use the Enforcement Referral Form (provided by DEQ) and provide any documentation related to the enforcement action to the DEQ. Due to statute of limitations concerns, the Districts should refer an enforcement matter to the DEQ no more than one year after the violation was discovered.
4. If the DEQ receives an enforcement referral from the Districts, the DEQ will use its enforcement discretion in determining whether to pursue additional administrative or civil enforcement action. If the DEQ decides to pursue the matter, the action will be considered a DEQ action and not a continuation of a District action.
5. Once the DEQ receives an enforcement referral from the Districts, the DEQ will notify the Districts of whether or not the DEQ will pursue the matter through additional action. If the DEQ determines not to pursue the matter, the Districts may choose to take additional action.
6. The DEQ reserves the right to initiate enforcement actions with respect to all persons or entities covered by the SSD rules without a referral when the DEQ determines, after consultation with the Districts, that DEQ action is necessary to protect public health and the environment. The DEQ will coordinate with the Districts in the event the DEQ determines that such action is necessary.
7. The DEQ will take the lead responsibility in defending the DEQ decisions regarding Nutrient Pathogen Studies.
8. The DEQ is responsible for enforcement actions associated with wastewater reuse permitting.

## **Protocol B: Public Water Systems (PWSs)**

Contracts are utilized between the DEQ and the Districts for specific tasks in accordance with Idaho Code §§ 39-401 and 39-414(4). The DEQ and the Districts shall implement and conform to the most recent PWS Contract awarded. The PWS Contract is more detailed than this MOU, and in the event of a conflict, the PWS Contract terms shall prevail. Generally, the Districts supervise ground water PWSs with less than 25 service connections.

The DEQ will:

1. Review engineering and technical plans, specifications, and reports for public drinking water systems in accordance with Idaho Code §39-118.
2. Notify the appropriate district when new or revisions to source water assessments fall within their jurisdiction.
3. Ensure the Districts have the opportunity to be involved, as their resources allow, with the development of source water protection plans for public water systems within their jurisdiction.

The Districts will:

1. Provide available information from District office hard copy files or electronic storage media on public water systems that will assist the DEQ in performing source water assessments or in assisting communities or public water systems in developing source water protection plans. The information provided to the DEQ will be limited to information that exists in these storage formats. New or unique data collection activities will not be required or requested of the district to fulfill this commitment.

## Protocol C: Solid Waste Management

This section outlines the roles and responsibilities of the agencies for the solid waste program. The governing laws are contained within the Idaho Solid Waste Facilities Act, Idaho Code § 39-7401 et seq. and the Solid Waste Management Rules, IDAPA 58.01.06. The Idaho Solid Waste Facilities Act, Idaho Code § 39-7401 et seq. provides specific authority to the DEQ and the Districts. These authorities are identified in subsection B. The Environmental Protection and Health Act, Idaho Code § 39-101 et seq. provides the DEQ the authority to promulgate rules to deal with problems related to solid waste management. Idaho Code § 39-414 provides that the District Board of Health may assume authority delegated to it by the DEQ and provides the DEQ the authority to delegate responsibilities to the District Board of Health.

### A. Municipal Solid Waste Landfill (MSWLF) Sites

The DEQ will:

1. Inform the Districts of proposed facilities, sites, and systems and provide copies of relevant correspondence.
2. Issue certification letter of suitability for prospective MSWLFs to MSWLF applicants as prescribed in Idaho Code § 39-7401 et seq.
3. Issue commercial solid waste siting licenses as prescribed in Idaho Code § 39-7401 et seq.
4. Approve or disapprove final design including point of compliance, ground water monitoring program, alternative daily cover, alternative final cover, alternative closure, and alternative post-closure care requirements and financial assurance plans for MSWLFs.
5. Approve final surface grade of fill area if slope exceeds 15 percent.
6. Provide the Districts with locations of mapped MSWLFs and any associated data.
7. Serve as lead agency when scheduling and conducting jointly with the Districts the mandatory 3 – 5 year reviews of MSWLFs as set forth in Idaho Code § 39-7419.
8. Provide courtesy reviews and submit comments to the Districts on operation plans, closure, and post-closure plans as resources and staff availability allow.
9. Provide the Districts with copies of approved site certification applications, design plans, and approval letters.
10. Refer issues regarding operations, closure, and post-closure to the Districts.
11. Perform all other activities for which the DEQ is authorized under the Idaho Solid Waste Facilities Act, Idaho Code § 39-7401 et seq.

The Districts will:

1. Participate in periodic solid waste meetings.
2. Support solid waste regulatory interpretations and other decisions or recommendations.
3. Approve or disapprove MSWLF Operation Plans including plans for the disposal of processed waste tires in accordance with the Waste Tire Disposal Act. The approval process shall be conducted in a manner similar to the site certification process set forth in Idaho Code § 39-7408.

4. Approve or disapprove MSWLF Closure and Post-closure plans. The approval process shall be conducted in a manner similar to the site certification process set forth in Idaho Code § 39-7408.
5. Require MSWLF personnel to contact the DEQ prior to open burning as defined in Idaho Code § 39-7403(33) as part of any approved operation plan.
6. As needed, prepare and/or adopt technical guidance to meet operations, closure and post closure, except with respect to those alternative plans that need the DEQ prior approval.
7. Review and recommend to the DEQ approval or denial of alternative operating plans and alternative closure and post-closure plans.
8. Provide the DEQ with corrections or updates on locations of MSWLF sites and any associated data.
9. Conduct routine unannounced inspections of MSW landfills at least annually, as staff and resources allow.
10. Recertify operating procedures at intervals of no more than three years as specified in Idaho Code § 39-7419(2).
11. Conduct jointly with the DEQ the mandatory three to five year reviews of MSWLFs by Idaho Code § 39-7419.
12. Inspect MSWLF sites at time of closure, prior to removal of any earth-moving or solid waste processing equipment.
13. Provide courtesy reviews and submit comments to the DEQ on site certification applications and design plans as resources and staff availability allow.
14. Provide the DEQ with copies of approved operating plans, closure plans, post-closure plans and approval letters.
15. Work with counties and cities on solid waste management issues and refer any issues falling under the DEQ jurisdiction to the DEQ.
16. Perform all other activities for which the Districts are authorized under the Idaho Solid Waste Facilities Act, Idaho Code § 39-7401 et seq.

## **B. All Non-Municipal Solid Waste Facilities (NMSWFs) and Activities**

The DEQ will:

1. In accordance with the Solid Waste Management Rules, IDAPA 58.01.06, review, approve, or disapprove siting and design applications, including review of plans and specifications for new or modified NMSWFs to assure that they will not cause or contribute to the pollution of air, surface water, or ground water. In accordance with the Solid Waste Management Rules, IDAPA 58.01.06, review, approve, or disapprove operations, closure and post-closure applications, including review of plans and specifications for new or modified Non-Hazardous Solid Waste Impoundments (NSWIs). Notify the Districts when reviewing siting of new or modified facilities.
2. Upon written request from city council or board of county commissioners, issue written authorization in compliance with Idaho Code § 39-6502 for waste tire storage sites.

3. Upon written request from city council or board of county commissioners, administer financial assurance for waste tire storage sites in compliance with Idaho Code § 39-6502.
4. Issue air permits, when required, for incinerators or compost facilities.
5. Approve or disapprove any other beneficial use, reuse or recycling of waste tires, chips or similar materials from waste tires.
6. Provide the Districts with locations of mapped Non-Municipal Solid Waste sites and any associated data.
7. Provide courtesy reviews and submit comments to the Districts on operation plans, closure and post-closure plans, excluding NSWIs, as resources and staff availability allow.
8. Provide the Districts with copies of approved site applications, design plans and approval letters.
9. Due to DEQ's specific technical expertise, DEQ will conduct unannounced NMSWF annual inspections, and investigate complaints relating to stand alone NSWI activities. When a NSWI is part of a NMSWF, DEQ will lead the NSWI portions of the unannounced NMSWF annual inspection, and investigate complaints relating to issues associated with the NSWI.

The Districts will:

1. Approve or disapprove applications for the operation, closure and post-closure care plans for NMSWFs, excluding NSWIs.
2. Provide regulatory oversight of the operations including unannounced annual inspections of NMSWFs, excluding NSWIs, as staff and resources allow.
3. Provide inspection reports and copies of all enforcement correspondence to the DEQ.
4. Be the lead agency for requirements relating to closure and post-closure of NMSWFs, excluding NSWIs.
5. Provide the DEQ with copies of approved operations plans, closure, closure/post-closure plans, and approval letters.
6. Provide the DEQ with corrections or updates on locations of NMSWFs sites and any associated data.
7. Provide courtesy reviews and submit comments to the DEQ on site approval applications and design plans as resources and staff availability allow.
8. Work with counties and cities on solid waste management issues, and refer any issues falling under the DEQ jurisdiction to the DEQ.
9. Refer complaints relating to NSWI activities to the DEQ

### **C. Enforcement—Solid Waste**

The DEQ will:

1. Provide reports and copies of all enforcement correspondence to the Districts for all solid waste sites, unless determined to be attorney-client confidential.
2. Be the lead agency for corrective action under the Solid Waste Management Rules, IDAPA 58.01.06, where standards for ground water, surface water, or air are being violated.

3. Enforce all aspects of site, design, ground water monitoring and financial assurance requirements.
4. Evaluate, at the DEQ Regional Office level, all NMSWF enforcement referral packages submitted by the Districts and recommend to the program office a specific course of action. The Regional Administrator will: recommend to the program office whether or not the referred enforcement case is within the areas of this MOU; validate whether or not reasonable efforts were expended to resolve the issue at the local level; and, evaluate whether or not the enforcement referral package contains adequate data to support a formal enforcement action, and, when applicable, evaluate whether the matter requires DEQ resources or expertise. The DEQ Regional Administrator will make a recommendation to the program office to resolve the issue at the regional level or refer the case to the DEQ State Solid Waste Program Office for formal enforcement. The Solid Waste Program Office has final determination on all enforcement issues.
5. Provide timely notice to the respective district prior to conducting routine unannounced inspections for all solid waste sites.
6. Provide the Districts written documentation of any potential operational, closure or post-closure violations for all solid waste sites.
7. Upon referral from a district, take enforcement responsibility for disposal sites that have not received site certification per IDAPA 58.01.06

The Districts will:

1. Provide inspection reports and copies of all enforcement correspondence to the DEQ regional office solid waste contact.
2. For MSW Landfills enforce all aspects of operation, closure and post closure pursuant to Idaho Code § 39-7406(c). Except, however, the Districts may request, and DEQ may accept a timely enforcement referral package in the format provided by the DEQ from the District Director to the appropriate DEQ Regional Administrator if unable to get resolution at the local level through education and technical assistance, and DEQ resources or technical expertise is required.
3. For NMWSFs provide a timely enforcement referral package in the format provided by the DEQ from the District Director to the appropriate DEQ Regional Administrator if unable to get resolution at the local level through education and technical assistance.
4. Make staff available for consultation/participation for enforcement cases as requested by the DEQ. These activities could include participation in compliance conferences, as deemed necessary by the DEQ Regional Administrator, and participation in civil or criminal actions as requested by the DEQ State Solid Waste Program Office.
5. Provide written documentation to the DEQ of any potential design or ground water monitoring violations for all solid waste sites.
6. Investigate open dumps and attempt resolution through education and technical assistance.

## Protocol D: Sanitary Restrictions

The DEQ delegates authority for the lifting or re-imposition of sanitary restrictions to the Districts for water and sewer systems as outlined below and pursuant to the procedures specified in Idaho Code § 50-1326 through 1329 and § 50-1334. When re-imposition of sanitary restrictions is required, the agency that was responsible for the review of plans and specifications and other information necessary to release sanitary restrictions is the responsible agency.

The DEQ will:

1. For public water and any wastewater systems for which the DEQ has reviewed plans and specifications, provide to the Districts a letter that will or will not recommend release of sanitary restrictions, and that indicates the form of the certificate of approval required on the plat.
2. Issue guidance on the approval for all sewer and water extension projects that are reviewed and approved for construction by the qualified licensed professional engineer (QLPE).
3. Initiate re-imposition of sanitary restrictions as provided in Idaho Code § 50-1326 for the public water and wastewater systems for which the DEQ has reviewed plans and specifications. Sanitary restrictions shall be re-imposed if construction is not in compliance with approved plans and specifications, or the facilities do not substantially comply with regulatory standards in effect at the time of facility construction pursuant to Idaho Code § 50-1326.
4. Ask the Districts to assist the DEQ or act on the DEQ's behalf with respect to the re-imposition of sanitary restrictions for systems for which the DEQ has reviewed plans and specifications. In the event the DEQ makes such a request, the DEQ shall provide adequate support to the Districts.

The Districts will:

1. For those public water and any wastewater systems for which the DEQ has reviewed plans and specifications, ensure that the certificate of approval in the form identified by the DEQ is placed on the final plat and sign the final plat as is required under Idaho Code § 50-1326. The certificate of approval for these systems shall not be signed until the District receives a letter from the DEQ recommending the release of sanitary restrictions.
2. For those water and sewer systems for which the Districts have reviewed plans and specifications or other information, issue to the owner or other responsible party the certificate of approval and ensure that the certificate of approval is signed on the final plat as is required under Idaho Code § 50-1326. The water systems addressed in this paragraph include those individual water facilities identified in Idaho Code § 50-1326.
3. Utilize the checklist located in the Land Development SOP for review of subdivisions served by shared well water systems expected or anticipated to serve less than 15 connections and less than an average of 25 people daily for at least 60 days out of the year. No DEQ engineering review would be conducted on well water system expected or anticipated to serve less than 15 connections and less than an average of 25 people daily for at least 60 days out of the year. District responsibilities are only to assure that the checklist is properly completed by the developer.

4. For those water and sewer system extensions for which a qualified licensed professional engineer (QLPE) has reviewed plans and specifications as provided in Idaho Code § 39-118(2)(d), and for which the DEQ has issued the general certificate of approval, ensure that the certificate of approval in the form identified by the DEQ is placed on the final plat and sign the final plat as is required under Idaho Code § 50-1326. The Districts must receive QLPE letter(s) for both water and sewer extensions.
5. Initiate re-imposition of sanitary restrictions as provided in Idaho Code § 50-1326 for the water and sewer systems for which the Districts have reviewed plans and specifications or other information. Sanitary restrictions shall be re-imposed if construction is not in compliance with approved plans and specifications, or the facilities do not substantially comply with regulatory standards in effect at the time of facility construction pursuant to Idaho Code § 50-1326.

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## Protocol E: Pumpable Waste

The DEQ delegates authority for inspection, approval, and permitting of pumpable waste as described below and as per the Water Quality Standards, IDAPA 58.01.02; the Solid Waste Management Rules, IDAPA 58.01.06; the Individual/Subsurface Sewage Disposal Rules and Cleaning of Septic Tanks, IDAPA 58.01.03; the Wastewater Rules, IDAPA 58.01.16; and the Recycled Water Rules, IDAPA 58.01.17.

The domestic septage program regulations are specified in the Individual/Subsurface sewage Disposal Rules and Cleaning of Septic Tanks, IDAPA 58.01.03. Guidance for this program is also found in the “Technical Guidance Manual for Individual/Subsurface Sewage Disposal Systems” and the “Management of Pumpable Waste in Idaho” documents.

### A. Solid Waste (examples: grease traps, sand traps, car wash sumps...)

Pumpable waste sites not covered below under Protocol E subsections B, C, or D, are regulated under the Solid Waste Management Rules and will be handled by DEQ and the Districts as outlined in the solid waste section of this MOU.

### B. Domestic Septage

Activities associated with domestic septage are authorized by the Individual/Subsurface Sewage Disposal Rules and Cleaning of Septic Tanks, (IDAPA 58.01.03). The authority for implementing this program is partially delegated to the Districts as set forth below.

The DEQ will:

1. Approve the method and location of domestic septage disposal under the Individual/Subsurface Sewage Disposal Rules and Cleaning of Septic Tanks, IDAPA 58.01.03, if the disposal location is used for ongoing applications from one or more septic tank pumpers.
2. Approve operation plans and provide inspections at approved domestic septage disposal sites.
3. Post a statewide list of permitted septic tank pumpers on to the DEQ webpage.

The Districts will:

1. Approve the method and location of one-time disposal of domestic septage.
2. Provide inspections at one-time approved domestic septage disposal sites.
3. Inspect and permit domestic septic tank pumpers.
4. Send to the DEQ, by March 15th of each year, a list of septic tank pumpers who have been issued a permit for the current year, including disposal methods and locations. The names of pumpers licensed after March 1 and their disposal methods will be forwarded to the DEQ at the time of permitting.
5. Post on the Districts’ webpage a list of the permitted septic tank pumpers or a link to the DEQ webpage.

### **C. Municipal Biosolids Land Application**

The DEQ will review and either approve or disapprove municipal biosolids sites as managed under section 650 of the Wastewater Rules, IDAPA 58.01.16.

The Districts will forward all inquiries for municipal biosolids to the DEQ regional office engineering manager.

### **D. Wastewater Land Application and Wastewater Reuse**

The DEQ will:

1. Issue wastewater reuse permits for municipal and industrial wastewater reuse sites.
2. Interpret the Recycled Water Rules, IDAPA 58.01.17 and provide advice on implementation of these rules for proposed development.

The Districts will refer all wastewater land application and wastewater reuse proposals or submittals to the DEQ regional office engineering manager.

### **E. Enforcement—Pumpable Wastes**

The DEQ will:

1. Provide reports and copies of all enforcement correspondence relating to solid waste and domestic septage to the Districts.
2. Be the lead agency for corrective action under the Individual/Subsurface Sewage Disposal Rules and Cleaning of Septic Tanks, IDAPA 58.01.03, when pumpers are land applying domestic septage without a disposal site approval or are not in compliance with the approved operations plan.
3. Provide the Districts with copies of any enforcement guidance.
4. Will enforce all aspects of domestic septic tank pumper rules, including revocation, or suspension of permits upon an appropriate enforcement referral from the Districts.
5. Provide for enforcement relating to pumpable wastes managed as solid wastes in accordance with the solid waste section of this MOU.

The Districts will:

1. Provide inspection reports along with copies of all enforcement correspondence to the DEQ.
2. Permit and conduct vehicle inspections for domestic septage.
3. Utilize available enforcement guidance (<https://www.deq.idaho.gov/media/60184534/final-enforcement-procedures-manual-070820.pdf>) when developing potential enforcement cases.

## **Protocol F: Water Pollution / Water Quality**

This section outlines certain roles and responsibilities for addressing water pollution and water quality. The DEQ has responsibilities to protect surface and ground water quality.

### **A. Surface Water Quality**

The DEQ will:

1. Conduct water pollution surveys in areas of concern and provide copies of studies to the Districts.
2. Work cooperatively with the Districts regarding sources of water pollution under the delegated authorities of this MOU.
3. Interpret any surface water samples collected by the Districts for compliance with the Water Quality Standards (IDAPA 58.01.02) and will advise the Districts when it is appropriate to conduct or post public health notices at recreation sites.
4. Fulfill DEQ's role as detailed in the Harmful Algal Bloom (HAB) response protocol.

The Districts will:

1. Notify the DEQ regarding available information on new, suspected, or known point and non-point sources of water pollution and work cooperatively under the DEQ's direction regarding the identified sources of water pollution.
2. At their discretion, conduct public health surveys including sampling of surface waters for *E. coli*, or other pathogens as appropriate, only in known areas where primary contact recreation occurs (beach surveys). The Districts will not sample surface waters in areas of secondary contact recreation unless under direct coordination with the Regional Office, Surface Water Quality Program Manager.
3. Provide assistance when possible with public health outreach under advisement from the DEQ regarding primary contact recreation sites.
4. Fulfill the District's role as detailed in the Harmful Algal Bloom (HAB) response protocol.

### **B. Ground Water**

The ground water quality act directs all state agencies to incorporate the adopted ground water quality protection plan in the administration of their programs (I.C. § 39-126). This section of the Idaho Code also directs cities, counties, and other political subdivisions of the state to incorporate the ground water quality protection plan in their programs and authorizes and encourages them to implement ground water quality protection policies within their respective jurisdictions.

Idaho Code § 39-126 further states that whenever a state agency, city, county, or political subdivision of the state issues a permit or license which deals with the environment, the entity issuing the permit or license shall take into account the effect the permitted or licensed activity will have on the ground water quality of the state and may attach conditions to the permit or license in order to mitigate potential or actual adverse effects from the permitted or licensed activity on ground water quality of the state.

Administration of the Individual/Subsurface Disposal Rules and Cleaning of Septic Tanks includes aspects of both public health protection and protection of surface and ground water quality. Acceptance of delegation of this program includes the DEQ authority to protect surface and ground water quality.

The DEQ will:

1. Notify the appropriate district when ground water quality monitoring results of drinking water wells detect contaminants in excess of the drinking water standards.
2. Notify the appropriate district when aquifers or parts of aquifers are being proposed for recategorization or designation as a ground water quality management area.
3. Provide the Districts with information on the utilization and implementation of the Idaho Ground Water Quality Rule.
4. Work to develop a central repository for ground water quality data and provide the Districts with a format for providing data.
5. Provide guidance to the Districts on standard operating procedures for collecting a ground water quality sample.
6. Conduct activities in accordance with the January 2020 (or more recent if available) Idaho Ground Water Protection Interagency Cooperative Agreement when possible.

The Districts will:

1. Provide technical assistance to private well owners as requested and as resources allow.
2. Collect ground water quality samples in accordance with the district standard operating procedures.
3. Regarding ground water activities in which the Districts are involved, provide location information using GPS technology along with any analytical data, when available; and record IDWR well tag information if available. If the IDWR well tag information is not available, then the Districts may, at their discretion, attach the IDWR well tag (with owner permission) and record information. The importance of well tags is that they provide a unique identifier for the sampled wells.
4. Assist the DEQ in the development of a DEQ central repository for ground water quality data and designate a contact person for transfer of water quality data to the DEQ.
5. Conduct activities in accordance with the January 2020 (or more recent if available) Idaho Ground Water Protection Interagency Cooperative Agreement.