



Extended Treatment Package System Subcommittee Meeting

Minutes

Thursday, June 27, 2013

**Department of Environmental Quality
Conference Room C
1410 N. Hilton
Boise, Idaho**

TGC-ETPS ATTENDEES:

Tyler Fortunati, R.E.H.S., On-Site Wastewater Coordinator, DEQ
Bob Erickson, Senior Environmental Health Specialist, South Central Public Health District
Ryan Spiers, Alternative Wastewater Systems, LLC
David Loper, Environmental Health Director, Southwest District Health Department
Brent Gee, Effluent Technologies, Inc.
James Bell, Bio-Microbics, Inc. (via telephone and GoToMeeting)
Raymond Keating, Environmental Health Specialist, Eastern Idaho Public Health District (via telephone and GoToMeeting)
Jay Loveland, Senior Environmental Health Specialist, Panhandle Health District (via telephone and GoToMeeting)

GUESTS:

Chas Ariss, P.E., Wastewater Engineering Manager, DEQ
PaRee Godsill, Everlasting Extended Treatment, Inc.
Kellye Eager, Environmental Health Director, Eastern Idaho Public Health District (via telephone and GoToMeeting)
Nathan Taylor, Senior Environmental Health Specialist, Eastern Idaho Public Health District (via telephone and GoToMeeting)
Janette Young, Administrative Assistant, DEQ

CALL TO ORDER/ROLL CALL:

Meeting called to order at 9:15 a.m.
Committee members and guests introduced themselves.

MEETING MINUTES:

March 27, 2013 Draft ETPS Subcommittee Minutes: Review, Amend, or Approve

Motion: David Loper moved to accept minutes as presented.

Second: Bob Erickson.

Voice Vote: Motion carried unanimously.



Minutes will post as final. See DEQ webpage and **Appendix A**.

OPEN PUBLIC COMMENT PERIOD: This section of the meeting is open to the public to present information to the ETPS subcommittee that is not on the agenda. The ETPS subcommittee is not taking action on the information presented.

No public comments were submitted during the allotted agenda timeframe.

REVIEW OF SUBCOMMITTEE CREATED MATERIALS:

4.2 Nonprofit Corporations (Appendix B)

The track changes shown in this and each subsequent document for this meeting indicate changes that have been made by the ETPS Subcommittee and the Attorney General's office. The changes shown are those that differ from the current version of the TGM and include all of the changes made to each document to date. David Loper requested that Tyler Fortunati identify the areas that the Attorney General made changes in.

Brent Gee indicated that he was not satisfied with the outcome of the testing issues addressed in the March Subcommittee meeting and did not feel like there was any resolution on the issue. Brent Gee would like testing to be eliminated from the requirements. Brent Gee stated that grab sample testing is not supported by the Manufacturer that supplies the ETPS units he works on. Committee members discussed a number of things that the ETPS committee has done to help systems meet the requirements including the addition of septic tanks prior to the treatment units, lowering the effluent requirements for Total Suspended Solids and Carbonaceous Biological Oxygen Demand, and provided exemptions for those systems with medical issues. Tyler Fortunati stated that the effluent testing issue was resolved and voted on during the March ETPS Subcommittee meeting. The Subcommittee voted unanimously to maintain the current testing requirements at that time.

Jay Loveland asked how long it would take to see if the changes made to the ETPS program were effective in bringing the O&M Entities and their members into compliance with their septic permit requirements. Discussion was held on how long it will take to see if the current changes are effective. The proposed changes, if accepted by the Technical Guidance Committee and DEQ, will go into effect in a few months at the soonest. This means the first annual reports seen under the new changes will not be submitted until July of 2014. It was generally agreed upon that it would take at least 2 to 3 years to determine the effectiveness of the proposed changes.

The Subcommittee reviewed their proposed changes to section 4.2 of the Technical Guidance Manual.



Motion: David Loper moved to approve Section 4.2 Nonprofit Corporations as presented and forward it to the Technical Guidance Committee for their review.

Second: James Bell.

Voice Vote: Motion carried unanimously. See **Appendix B**.

4.10 Extended Treatment Package Systems (Appendix C)

The Subcommittee reviewed their proposed changes to section 4.10 of the Technical Guidance Manual.

Ryan Spiers had concern requiring all of the data in Section 4.10.3 under item 1. c. to be captured by the service provider at each maintenance visit. The record suggestions included in this section are to aid the service provider in suggested areas of maintenance. It was clarified that records of each maintenance visit “shall” be kept is a requirement, and that the records “should include the following”, is a recommendation of what data should be collected during a maintenance visit. Ryan Spiers was satisfied with this explanation.

Tyler Fortunati added information to Section 4.10.3 under item 2. f. regarding the required use of certain wastewater analysis methods in the annual testing of ETPS unit effluent. The standards added to this section are from the *Standard Methods for the Examination of Water and Wastewater* and were identified by NSF staff as the standards utilized in the NSF Standard 40 and 245 evaluations. The question was raised on how often NSF changes these standards. Jim Bell indicated once every other year, but the changes are in systems numbers and they are pretty stable. Tyler Fortunati stated that NSF staff suggested that the person requesting the analysis from the lab must specify CBOD₅ on the Chain of Custody paperwork for Standard Method SM 5210 B to ensure the correct analysis will be performed.

Section 4.10.4 Annual Report is where the Attorney General’s office made significant changes to the document. The major changes include the fact that O&M Entities would no longer be suspended and instead DEQ would be disapproving a manufacturer’s ETPS technology. This is supported by IDAPA 58.01.03.009. The Attorney General also placed responsibility of the program on the property owner as supported by IDAPA 58.01.03.002.04. There was concern among the Subcommittee that this may open the door for homeowners to choose any service provider and eliminate their O&M entity. Tyler Fortunati clarified that a property owner’s subsurface sewage disposal permit is tied to the O&M Entity they sign a member agreement with and the changes do not release the property owner from the O&M Entity. However, it does make the homeowner accountable for their ETPS system including maintenance, testing, and annual reporting.



11:00 AM Break

11:05 AM Meeting resumed

4.10 Extended Treatment Package Systems (Continued) (Appendix C)

Further discussion was held on the O&M Entity and its role. The O&M Entity is in place to provide an avenue for the manufacturer to work with the property owner's utilizing their systems if needed. The O&M Entity is also there to coordinate with the service provider to ensure their membership has the necessary pieces in place to have their ETPS units serviced, maintained, and tested every year. The O&M Entity also provides its members a way to verify what services they are paying for and provides them an opportunity to select the service provider that services their units. Since service providers are not licensed by the State of Idaho the O&M Entity is also in place to work with the manufacturer to ensure their service provider has the correct training and knowledge to perform the annual requirements.

The question was raised on if the proposed changes are applicable to old O&M Entities or only new O&M Entities. Tyler Fortunati stated that the changes impact all of the O&M Entities in regards to section 4.10 of the Technical Guidance Manual. Reporting requirements will be the same for existing systems as well as new systems.

David Loper raised concerns regarding the health district sending out compliance and non-compliance letters to each individual O&M Entity member due to time and cost. Since there is a lack of funding to perform these duties it was asked that this be amended. Changes were made so that the health district informs the O&M Entity of their member's compliance status. It is then up to the O&M Entity on whether they will forward that information on to their individual members.

The meeting was adjourned for lunch
Lunch 11:55 to 1:10 p.m.

4.10 Extended Treatment Package Systems (Continued) (Appendix C)

The Subcommittee concluded the review of their proposed changes to section 4.10 of the Technical Guidance Manual.

Motion: Bob Erickson moved to approve Section 4.10 Extended Treatment Package Systems with the minor changes made today and forward it to the Technical Guidance Committee for their review.

Second: Ryan Spiers.



Voice Vote: Motion carried unanimously. See **Appendix C**.

DEQ Service and Testing Reminder-Explanation Letter (Appendix D)

This letter was reviewed by the Attorney General and no changes were made. This letter will be sent by DEQ to the O&M Entities. It will be provided in PDF format on DEQ letterhead with the hope that the O&M Entities will include it in their billing or annual statements to their members.

Motion: David Loper moved to approve the DEQ Service and Testing Reminder-Explanation Letter as presented and forward it to the Technical Guidance Committee for their review.

Second: Bob Erickson

Voice Vote: Motion carried unanimously. See **Appendix D**.

Letter 1: It Has Come to Our Attention (Appendix E)

This letter was reviewed by the Attorney General and no changes were made. This letter will be sent out by the regulatory authority via certified mail when a property owner is refusing service of the ETPS unit.

Motion: Bob Erickson moved to approve Letter 1: It Has Come to Our Attention as presented and forward it to the Technical Guidance Committee for their review.

Second: James Bell

Voice Vote: Motion carried unanimously. See **Appendix E**.

Letter 2: Voluntary Deadline to Comply (Appendix F)

This letter was reviewed by the Attorney General and no changes were made. This letter will also be sent out by the regulatory authority via certified mail if there is no response to Letter 1 by the property owner. The next step after Letter 2 is a Notice of Violation.

Motion: David Loper moved to approve Letter 2: Voluntary Deadline to Comply as presented and forward it to the Technical Guidance Committee for their review.

Second: James Bell

Voice Vote: Motion carried unanimously. See **Appendix E**.



All materials created and amended by the Extended Treatment Package Subcommittee have been reviewed by the Subcommittee. All materials have been unanimously approved by the Extended Treatment Package Subcommittee and forwarded to the Technical Guidance Committee for their review through Subcommittee vote. Tyler Fortunati sought a motion to adjourn the meeting from the Subcommittee unless there was any other Extended Treatment Package System topic the Subcommittee felt needed to be addressed at this time.

Motion: Ryan Spiers moved to adjourn the meeting.

Second: Bob Erickson

Voice Vote: Motion carried unanimously.

Tyler Fortunati thanked the Subcommittee members for the time and effort that they put forth to help address the Extended Treatment Package System problems in the State of Idaho.

Meeting adjourned at 2:15 p.m.

List of Appendices

Appendix A:

March 27, 2013 Minutes FINAL

Appendix B:

4.2 Non Profit Corporations

Appendix C:

4.10 Extend Treatment Package System

Appendix D:

DEQ Service and Testing Reminder-Explanation Letter

Appendix E:

Letter 1: It Has Come to Our Attention

Appendix F:

Letter 2: Voluntary Deadline to Comply



Appendix A

Extended Treatment Package System Subcommittee Meeting

Minutes

Wednesday, March 27, 2013

**Department of Environmental Quality
Conference Room C
1410 N. Hilton
Boise, Idaho**

TGC-ETPS ATTENDEES:

Tyler Fortunati, R.E.H.S., On-Site Wastewater Coordinator, DEQ
Bob Erickson, R.E.H.S., Senior Environmental Health Specialist, South Central Public Health District
Ryan Spiers, Alternative Wastewater Systems, LLC
David Loper, R.E.H.S., Environmental Health Director, Southwest District Health Department
Brent Gee, Effluent Technologies, Inc.
James Bell, Bio-Microbics, Inc. (via telephone and GoToMeeting)
Raymond Keating, R.E.H.S., Environmental Health Specialist, Eastern Idaho Public Health District (via telephone and GoToMeeting)
Jay Loveland, R.E.H.S., Senior Environmental Health Specialist, Panhandle Health District (via telephone and GoToMeeting)

GUESTS:

Chas Ariss, P.E., Wastewater Engineering Manager, DEQ
Steve Wielang, Bedrock Excavating
PaRee Godsill, Everlasting Extended Treatment, Inc.
Kellye Eager, Environmental Health Director, Eastern Idaho Public Health Department (via telephone and GoToMeeting)
Scott Hendrick, Norweco, Inc. (via telephone and GoToMeeting)
Janette Young, Administrative Assistant, DEQ

CALL TO ORDER/ROLL CALL:

Meeting called to order at 9:15 a.m.
Committee members and guests introduced themselves.

MEETING MINUTES:

February 21, 2013 Draft ETPS Subcommittee Minutes: Review, Amend, or Approve

Motion: David Loper moved to accept minutes as presented.

Second: Bob Erickson.



Voice Vote: Motion carried unanimously.

Minutes will post as final. See DEQ webpage and **Appendix A**.

OPEN PUBLIC COMMENT PERIOD: This section of the meeting is open to the public to present information to the ETPS subcommittee that is not on the agenda. The ETPS subcommittee is not taking action on the information presented.

No public comments were submitted during the allotted agenda timeframe.

Update on Action Items from February 21, 2013 ETPS Subcommittee Meeting (Appendix B)

- **Review of sampling port photos from NSF testing facility**
James Bell presented the information on sampling ports and photos from the NSF testing facility. Discussion was held on grab samples versus composite samples, sampling from the ETPS unit versus a sampling port, and different ETPS units' ability to eliminate solids before discharging to drainfields.
- **Effect of removing refusal of service members on O&M Entity compliance rates**
The effect of removing members that would be considered refusing service under proposed changes on the O&M Entity compliance rates in regards to the 90% passing statistic was discussed. Tyler Fortunati presented information on the O&M Entities, currently eight out of the 12 are suspended, and of these only one of the eight sent in their annual report. The compliance of this submitted report would not be affected by removal of refusal of service members. Data from another one of the entities indicates that roughly 30% would fall into the refusal of service category, but the annual report was incomplete so there is no way to judge how removal of these members would affect the compliance rate. No other information available from the other O&M entities. The list of O&M Entities from the November ETPS meeting was reviewed showing overall O&M Entity compliance. Discussion was held on Southern's bankruptcy. Overall there is not enough information to know how removal of refusal of service members would impact the ability of the O&M Entities to be in compliance.
- **Update on O&M Entity status if compliance rate was lowered from 90% down to 85% or 80%**
Tyler Fortunati stated that due to the lack of recent reporting by the O&M Entities it was not possible to judge how lowering the compliance rate would affect the status of the existing O&M Entities. Ray Keating stated he had compliance data from annual reports that showed what the compliance rates of the Entities were back from 2008 and wanted to know if this could be used to unsuspend Entities if the compliance rate was lowered. Tyler Fortunati stated that suspensions would only be lifted based on data that was submitted within the current reporting year. O&M Entities need to provide data from the last full year of testing, and be aware that O&Ms are already being provided a break on medical, vacant, and refusal of service/payment on their member properties. Without adequate and recent data supporting a change DEQ is not willing to adjust the current compliance rate. This



could be revisited in the future after full annual reports are submitted on a regular basis supporting a change.

- **Reviewed Massachusetts sampling and troubleshooting requirements for ETPS systems**

MA has 3 levels of certification: Pilot, Provisional and General Use. During the Pilot certification the ETPS unit is required to be tested for Total Suspended Solids (TSS), Biological Oxygen Demand (BOD₅), pH and Total Nitrogen (TN) on a monthly basis for 18 months. Units must meet the following testing requirements: 30mg/L for TSS and BOD, TN varies from 19 mg/L for residential to 25 mg/L for commercial or large systems. Under the Provisional Certification the unit is tested quarterly for TSS, BOD, pH and TN for three a minimum of 3 years. To complete the Provisional requirements a manufacturer must have 50+ units installed in the State and submit a performance evaluation report showing that 90% of the units are reliably treating effluent to the required standards over the entire 3 year period. Once the provisional certification is completed, the units can be moved into General Use with tests of TN and pH (6-9) twice a year. The service provider is also required to perform field tests for Dissolved Oxygen (DO) (>2mg/L) and turbidity (<40NTU). Under the pilot and provisional certifications DO, pH, and turbidity are used as indicators to troubleshoot if the system is functioning properly. If field tests show any of these indicators are failing they are required to submit lab samples for TSS and BOD. TSS and BOD are recommended to be field tested during every service visit. See Appendix B for additional MA website links outlining these program requirements. James Bell stated that it took Bio-Microbics 6 years to complete the provisional phase in MA due to various issues. Testing costs under MA's program were about \$400-600/year. Massachusetts wants field data, not NSF data to approve units. James Bell also clarified that a manufacturer may be able to begin in the provisional phase if they have units installed in other States of similar climate to MA and have the associated effluent testing data on those units. This data has to be reviewed and approved by MA prior to the technology being granted provisional status.

- **Lab variability sampling study proposal**

Tyler Fortunati discussed DEQ's support for a lab variability sampling study analyzing lab analysis through split sampling. The study will require a lot of planning and preparation including a Quality Assurance Plan and a Field Sampling Plan, statistical analysis, etc. Templates for some of these documents are available but it will still take time to design and perform this study using the State Lab, independent labs, and a wastewater treatment plant. This is in its preliminary stages of planning. Tyler Fortunati stated that due to the time it will take to develop and complete the study the information produced will be presented to the Technical Guidance Committee (TGC) instead of the ETPS Subcommittee. This is due to the fact that it is unknown if the ETPS Subcommittee will still be meeting when the study is complete. The TGC will be capable of making any necessary changes based upon the study.

10:51 AM Break



11:02 AM Meeting resumed

OLD BUSINESS:

Resolve discussion on ETPS testing requirements

Request to members of subcommittee to provide any new input regarding testing. No new information was presented to the subcommittee. Brent Gee would like to see testing go away. James Bell would like to see the testing requirements remain in their current form. Tyler Fortunati asked the subcommittee to make a motion regarding the ETPS testing requirements so that the subcommittee may move forward in the program and have a decisive direction on testing requirements.

Motion: David Loper moved that the ETPS Subcommittee recommend to the TGC that the current values for TSS, CBOD₅, and TN stay as is and continue the testing program as is, with the exception of the recommended changes outlined in the ETPS Subcommittee proposed Section 4.10 of the TGM.

Second: Ryan Spiers.

Voice Vote: Motion carried unanimously.

NEW BUSINESS:

Update on real estate brochure created by the subcommittee

The brochure was mailed to Title Companies and the Real Estate Associations on March 27. In addition, the brochure was posted to DEQ's website and provided to the Health Districts as well.

Review of proposed changes to section 4.2 of the TGM

Review of section 4.2 for amendments to address comments by the Land Title Association's Liaison Committee regarding member agreements. Discussion on whether these changes to the membership agreements would be retroactive. Tyler Fortunati stated that this will have to be discussed with the Attorney General's office. There was an addition of a new Section 4.2.4. Sampling Plans for Extended Treatment Package Systems which was based on a request by the TGC. See **Appendix C** for the edited version of this TGM section.

The meeting was adjourned for lunch
Lunch 11:51 to 12:56 p.m.



NEW BUSINESS: (continued)

Review of proposed changes to section 4.10 of the TGM

Reviewed Section 4.10 for amendments addressing changes suggested from last meeting and recommendations surrounding maintenance requirements and troubleshooting suggestions gained from examination of Massachusetts's testing requirements.

Discussion was held revolving around what maintenance requirements are currently in place for annual maintenance of ETPS units. Tyler Fortunati stated that there are currently no requirements on what is done during a service visit. PaRee Godsill presented the subcommittee a form that was attached to a DEQ letter sent to her in 2005 outlining maintenance suggestions.

There was discussion about the certification of laboratories for wastewater analysis in Idaho. Tyler Fortunati clarified that there are no "certified" labs for wastewater examination in the State. The only certifications that exist in Idaho are for drinking water standards. The subcommittee discussed the importance of service providers and O&M Entities verifying that the labs they choose to use for wastewater analysis are capable of utilizing an acceptable method as described in the *Standard Methods for the Examination of Water and Wastewater* as recommended by the TGM. One area that may come out of the lab variability study discussed earlier is the designation of specific testing standards that should be utilized in the ETPS reporting program. It was recommended by the subcommittee that service providers and O&M Entities utilize the same standard for effluent constituents for all of their samples.

There was discussion around the recommendation that the TGC evaluate the submission date for the annual report.

Motion: David Loper moved that the annual report submission date remains at July 31, and that the reporting period remains July 1st through June 30th.

Second: Bob Erickson.

Voice Vote: Motion carried unanimously.

An action item for DEQ was given by the subcommittee. The action item is to develop a new flow chart that outlines the enforcement procedures, including the letters developed by the subcommittee, for the refusal of service members that are exempted from the compliance rates of the annual report. DEQ will develop this flowchart for the next meeting.



It was asked that the existing flowcharts in section 4.10 of the TGM be updated to reflect any changes proposed by the subcommittee. In this revision it was asked that clarification be provided on what must be retested upon failure of a sample (i.e., all constituents or just the failed test).

Brent Gee asked if the O&M Entities could submit the information for refusal of service members prior to the annual report. Tyler Fortunati stated that the intent was to have all of this information submitted with the annual report. The O&M Entity should spend the reporting year trying to work with the members refusing service. It is the documentation of this process that should be included in the annual report as outlined in section 4.10 of the proposed TGM revisions, up to and including the lien documentation for members failing to pay annual dues.

See **Appendix D** for the edited version of this TGM section. See **Appendix E** for a copy of the 2005 DEQ maintenance suggestions provided by PaRee Godsill.

Discussion on O&M Entity transitions

David Loper stated there are 3 or 4 issues of why an O&M is not viable. The out of compliance entities need to start with the proposed new structure and make a good faith effort to create a viable business model.

Tyler Fortunati suggested grouping them into three categories including non-payment of members, non-active O&Ms, and technologies that cannot meet testing requirements.

Discussion ensued that ended in the consensus that the recommended changes the ETPS Subcommittee has developed should make the program work on its own. The subcommittee decided that there should be no reason to develop different subgroups within the ETPS program and address them individually.

Tyler Fortunati stated that DEQ was still waiting on Attorney General review of the proposed materials developed by the ETPS Subcommittee. There is no definitive timeline of when this will be complete. It is hoped that this will be complete before the subcommittee meets again in case there are any necessary revisions to any of the materials.

David Loper noted that currently the ETPS subcommittee is recommending these changes to the TGC and developing enforcement procedures. The hope is that working with the homeowners and getting them to pay for maintenance, sampling, and testing will get the O&M entities back into compliance.

There was discussion on how to handle the O&M Entity representing Southern treatment units since the manufacturer is no longer in business. Tyler Fortunati stated that the Entity's by-laws still allow for the Entity to function and perform the duties it was created to do. In



this case the members will have to take control of the Entity to make sure that they are meeting their responsibilities required by the septic permit. O&M Entities cannot dissolve and therefore they will not just go away.

Ray Keating asked what are the options are for suspended Entities to get back into compliance. Tyler Fortunati stated that they must submit annual reports showing that the membership is capable of meeting the 90% compliance rate stipulated for the program. This must be done off of current reporting year data. Testing results from years past will not be used to unsuspend an Entity.

There was discussion on whether or not the suspended Entities could be unsuspended, regardless of current reporting status and results, so they could sell new units and generate some capital to get their program up and running. Tyler Fortunati stated that DEQ is not willing to unsuspend the currently suspended Entities and allow them to place new members under contract without knowing if the Entity is going to be able to perform their necessary function and achieve the testing results needed. This would be placing new homeowners in a position that could be unsuccessful and possibly result in enforcement action. DEQ and the Health Districts are not willing to place individual property owners in this position just to see if the revised ETPS program will be successful. The suspended Entities will need to get themselves unsuspended as described in the ETPS program guidance.

Motion: David Loper motioned to have ETPS Subcommittee recommendations for TGM revisions into action. Move the developed materials on to the TGC and dismiss the ETPS Subcommittee.

Discussion: Bob Erickson

Discussion ensued about where the subcommittee is currently at in the program revision. It was decided by the subcommittee that they were ready to review the revisions that they have developed in order to vote to pass them on to the TGC. Tyler Fortunati stated that the materials should complete the Attorney General's review prior to ETPS Subcommittee review and/or revision based upon the AG's input.

Motion: David Loper rescinded his previous motion.

Tyler Fortunati will forward the ETPS subcommittee recommendations to the Attorney General's office for review and guidance. At the next ETPS Subcommittee meeting the subcommittee will review all of the proposed materials that have been developed including the flowchart development/revision that was requested previously for section 4.10 of the TGM. Tyler Fortunati stated that at this time it is not known when the AG's office will be able to complete its review of the subcommittee materials. Without that information the



next ETPS Subcommittee meeting cannot be scheduled at this time. When the AG's review is complete Tyler Fortunati will poll the subcommittee members on the next meeting date. This approach was acceptable to the subcommittee.

Motion: Ryan Spiers moved to adjourn the meeting.

Second: Bob Erickson.

Voice Vote: Motion carried unanimously.

Meeting adjourned at 2:44 p.m.

ETPS Parking Lot: This is an area reserved for subcommittee meeting topics for future agendas.

List of Appendices

Appendix A:

February 21, 2013 Minutes FINAL

Appendix B:

Sampling Port Information, Massachusetts Sampling and Lab Variability Study

Appendix C:

TGM 4.2 Nonprofit Corporations

Appendix D:

TGM 4.10 Extend Treatment Package System

Appendix E:

Copy of February 1, 2005 O&M Annual Report "Outline for Operation and Maintenance Annual Reports"



Appendix B

4.2 Nonprofit Corporations

Revision: ~~November 21, 2000~~ June 27, 2013

Nonprofit Corporations (Entities) to manage large soil absorption systems, extended treatment, ~~or~~ experimental systems, ~~clustered systems,~~ or any other ~~more~~ complex systems the Director deems a maintenance entity is required to manage must guarantee that they will be responsible for the system and be available to provide operation and maintenance (O&M). The following guidance provides for a nonprofit corporation which can do that: If an O&M Entity is setup to provide operation and maintenance for Extended Treatment Package Systems (IDAPA 58.01.03.009.02 and 58.01.03.009.03) or Large Soil Absorption Systems (IDAPA 58.01.03.013.07.c) according to the following minimum elements, the maintenance entity will likely be approved by the Director. These minimum elements provide assurance that operation and maintenance, as conditioned for these particular systems by the Director, occurs. Other O&M Entity elements may be acceptable on a case-by-case basis depending upon the maintenance needs of an Entity. Other elements not included within this guidance section will be evaluated on a case-by-case basis.

4.2.1 Required Incorporation Elements

The following elements must be included within the Entity's Articles of Incorporation or Bylaws:

1. The nonprofit organization should be incorporated according to Idaho Code 30-3.
2. The Articles of Incorporation shall include a requirement that any changes to the Entity's Articles of Incorporation or Bylaws shall be approved by the Department of Environmental Quality's Water Quality Division Administrator (Director) or his/her designee per Idaho Code 30-3-99.
 - a. The Director shall provide the Nonprofit Entity approval in writing of any changes to the Articles of Incorporation or Bylaws that are not in conflict with section 4.2 or 4.10 of the Technical Guidance Manual.
- ~~2.~~3. Membership should be limited to property owners only.
- ~~3.~~4. Voting should be limited to one parcel/one full membership/one vote.
- ~~4.~~5. Voting rights should be restricted to members with improved property.
- ~~5.~~6. Voting rights should not be cancelled.
 - a. Exception to this is allowed in the event that an extended treatment package system is disconnected and removed from the property as approved by the Director.
7. Purposes of the organization should be clearly defined in the Articles of Incorporation.
- ~~6.~~8. The Nonprofit Entity should hold an annual meeting of the membership.



9. Funds generated are to operate specific functions and should be restricted for use to the specific purpose. Those purposes should be defined in the Bylaws or associated Membership Agreement.
- a. Annual financial reports should be made available to the membership upon request by individual members and through the annual membership meeting.
- 7.10. Multiple-purpose organization funds generated are to be separately maintained, and funds from one account should not be available for another account's use.
11. ~~The organization~~ Nonprofit Entity should either own the system(s) it intends to maintain or have an access easement in place.
- a. Access easements for extended treatment package systems should be executed through a membership agreement as outlined in section 4.2.3.
8. ~~Mutually agreeable access to those systems owned by the entity should be provided by the property owner.~~
- 9.12. Membership (and shares) in the ~~entity~~ Nonprofit Entity must run with the land, and successive owners must acquire the preceding owner's membership or voting share(s).
- 10.13. The purchaser ~~or~~ and any new member should be provided by the Nonprofit Entity with a copy of the Articles of Incorporation, By-Laws, Covenants, and Contracts (i.e., membership agreement, etc.) with the ~~entity~~ Entity.
- 11.14. There should be no provisions restricting ownership of improved property.
15. The ~~entity~~ Nonprofit Entity should be capable of raising revenue by fixing setting and collecting user charges.
16. Board of Director Requirements:
- a. For Extended Treatment Package System Nonprofit Operation and Maintenance Entities the Board of Directors should contain one permanent position required to be filled by a corporate officer, general partner, or owner of the manufacturer of the treatment technology.
- i. The only exemption to this requirement shall be for cases where manufacturers are no longer in business. In this case the existing Board Members and associated membership shall vote in a new Board Member to ensure that item 16.b is fulfilled.
- a.b. The Board of Directors should include a minimum of three Board Member positions.



- 12.17. The Board of Directors should be able to raise revenue for emergency operation and maintenance of community owned systems without majority vote.
18. The ~~organization~~ Nonprofit Entity must be capable of suing and of being sued, maintain the capability to impose liens on those members (shareholders) who become delinquent in user charges, and suspend services, providing such suspension will not jeopardize other members' use.
- 13.19. The Nonprofit Entity should provide an operation and maintenance manual that shall be approved by the Director.
- a. ~~An~~ The operation and maintenance manual shall ~~should~~ be approved by the Director ~~provided to all new members for extended treatment package systems~~ and shall include the monitoring requirements as outlined in ~~the~~ Section 4.10.2 "Extended Treatment Package System" ~~Operation, Maintenance and Monitoring Conditions for Approval.~~
- 14.20. Conditions for dissolution of the ~~organization~~ Nonprofit Entity should be specified. Dissolution should be limited to connection to a municipal wastewater treatment facility or merger with another approved ~~nonprofit~~ Nonprofit corporation Entity having management capability.
- 15.21. Except as provided in item ~~1820~~, the ~~entity~~ Nonprofit Entity should not be able to vote itself out of existence.
22. ~~A~~ For Nonprofit Entities a third party (i.e., maintenance entity, service provider, etc.) should be identified to execute the specified operation and maintenance functions, ~~in the event the operating entity is incapable of performance.~~
- a. Service Providers for Nonprofit Entities overseeing extended treatment package systems should be certified in writing by the manufacturer for the servicing of their technology. The certification should be provided to the Director prior to approval.
- 16.23. The ~~entity~~ Nonprofit Entity should be able to plan and control how and at what time additional service functions will be extended or added.
- 17.24. The Articles of Incorporation and/or By-Laws should provide for proxy voting.
- 18.25. Proxies should not be binding on new purchasers.
- 19.26. ~~The~~ For community systems the developer of the project should be required to contribute to the operation and maintenance until such time as the ~~nonprofit~~ Nonprofit corporation Entity is self-sustaining. Consider either a specified period of time or when a specified number of lots ~~has~~ have been sold.



27. The ~~organization~~ Nonprofit Entity should have a defined service area boundary.

4.2.2 Notification Requirements

The Nonprofit Entity shall notify the Director for any of the following reasons:

1. Any content changes that occur to the Articles of Incorporation, Bylaws, or Membership Agreements that occur after initial approval by the Director shall be provided to the Director for review and approval prior to their implementation. Any changes that conflict with any portion of section 4.2.1 should not be approved.
2. Changes occur to the Board of Directors.
3. Service provider(s) are changed.
4. Sampling plan changes or adjustments are necessary.

4.2.3 Membership Agreements for Extended Treatment Package Systems

The membership agreement is separate from the Articles of Incorporation and Bylaws for the Nonprofit Entity but is a required element for membership in the Nonprofit Entity and to ensure that proper operation and maintenance will be performed (IDAPA 58.01.03.009.03). Membership agreements should contain the following elements:

1. Title of the membership agreement should include the words *lien notice, access easement, member agreement, and the name of the Nonprofit Entity.*
2. Contact information for the Nonprofit Entity should be listed including a mailing address and phone number.
3. A statement that annual fees will be assessed for services rendered by the Nonprofit Entity should be included.
4. The agreement should describe the exact services that are and are not included within the agreement (e.g., service, maintenance, annual testing, repairs, annual report submission, etc.).
5. The access easement language should be included.
6. A description of the lien process should be included.
7. The legal description of the property should be included.
- 1-8. A requirement that upon each sale of the property the buyer will sign an acknowledgement that they have reviewed the membership agreement and understand its requirements.



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.

4.2.4 Sampling Plans for Extended Treatment Package Systems

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

1. A signed letter from the manufacturer of the treatment technology certifying that the sampling method provided is acceptable for their technology.
2. A 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 are in conformance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*.
4. A way to collect all samples from a free flowing effluent pipe. Hose or portable water sources may be used to induce flowing condition but should be used as an option of 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 collection of a grab sample. These indicators should provide indication that the treatment unit is operating properly.



Appendix C

4.10 Extended Treatment Package System

Revision: ~~January 4, 2011~~ June 27, 2013

4.10.1 Description

Manufactured and *packaged* mechanical treatment devices that provide additional biological treatment to septic tank effluent. Such units may use extended aeration, contact stabilization, rotating biological contact, trickling filters, or other approved methods to achieve enhanced treatment after primary clarification occurs in an appropriately sized ~~primary clarifier~~ (septic tank). These systems provide secondary wastewater treatment capable of yielding high-quality effluent suitable for discharge in environmentally sensitive areas.

Extended Treatment Package Systems (ETPS) are required to have annual maintenance and effluent quality testing performed and reported to the Director as described within section 4.10 of the TGM (IDAPA 58.01.03.005.14). This maintenance is to be performed by an approved Operation and Maintenance Entity (O&M) (IDAPA 58.01.03.009.03). Property owners that install an ETPS unit must choose an O&M Entity capable of meeting their maintenance and effluent testing needs. Verification of the chosen O&M Entity shall be submitted with the subsurface sewage disposal permit application ensuring that the operation, maintenance, and monitoring (effluent quality testing) will occur (IDAPA 58.01.03.005.04.k). Property owners that do not want to meet these O&M requirements must meet the requirements of section 4.10.2(2) or choose another alternative system that will meet the conditions required for subsurface sewage disposal permit issuance.

4.10.2 ~~Operation, Maintenance, and Monitoring~~ Conditions for Approval

~~Procedures relating to operation, maintenance, and monitoring are required by IDAPA 58.01.03 (section 8.1) or may be required as a condition of issuing a permit, per IDAPA 58.01.03.005.14 (section 8.1) to ensure protection of public health and the environment.~~

1. A maintenance entity will be available to provide continued device operation and maintenance (O&M). Approval of the O&M Entity will be made by the Director ~~before~~ prior to the issuance of a permit. Approvable entities may include, but are not limited to, the following:
 - a. Municipal wastewater treatment departments
 - b. Water or sewer districts
 - c. Nonprofit Corporations (see section 4.2)

An O&M ~~Agreement~~ Entity membership agreement and an accompanying general access easement should be entered into between the property owner and the ~~Nonprofit~~ O&M Entity, as a necessary condition for issuing an installation permit (IDAPA 58.01.03.005.04.k). This agreement and the easement will be recorded with the County as a condition for issuing an installation permit.



2. Extended Treatment Package Systems (ETPS) may be used for single family dwellings properties without an approved maintenance-eO&M Entity **only under all of the following conditions:**
 - a. The site is acceptable for a standard system. All separation distances from ground water, ~~and~~ surface waters, and limiting layers, ~~and soil types~~ shall be met.
 - b. Enough land is available, and suitable, for two full-size drainfields. One complete full-size drainfield shall be installed.
 - ~~c. A state-approved effluent filter shall be used at the outlet of the package treatment system and before the drainfield.~~
3. Final effluent disposal through subsurface discharge will meet the following criteria:
 - ~~d. Surface discharge. System owner will apply for a National Pollution Discharge Elimination System Permit (NPDES) from the United States Environmental Protection Agency (EPA). Effluent quality will meet the applicable requirements of the "Water Quality Standards" (IDAPA 58.01.02), "Wastewater Treatment Requirements" (IDAPA 58.01.16), and all other applicable regulations.~~
 - ~~e. Ground water discharge. Effluent quality will meet the applicable requirements of the "Ground Water Quality Rule" (IDAPA 58.01.11), "Wastewater Rules" (IDAPA 58.01.16), and all other applicable regulations. Total Nitrogen discharge shall not exceed that specified in the development's Nutrient Pathogen (NP) Study in order to prevent the ground water from exceeding the "Ground Water Quality Standard" for nitrates (IDAPA 58.01.11.200.01.a) and to maintain and protect the existing and projected future beneficial ground water uses (IDAPA 58.01.11.006.02).~~
 - a. Subsurface discharge. If an 85% reduction or better in Carbonaceous Biological Oxygen Demand (CBOD₅) and Total Suspended Solids (TSS) can be achieved, then the effluent may be discharged to a drainfield satisfying the Intermittent Sand Filter (section **Error! Reference source not found.**5) ~~or the Recirculating Gravel Filter~~ ~~ravity Disposal Trenches (section 4.22.5)~~ application rate criteria and vertical setback requirements.
 - i. Otherwise, the effluent must be discharged to a standard drainfield, sized as directed in IDAPA 58.01.03.008 (section 8.1) and meeting the required effective soil depth for standard drainfields as directed in IDAPA 58.01.03.008.02.
 - ii. Additional drainfield sizing reduction granted for use of gravelless trench products is not allowed.



f.b. ~~The 85% reduction is a qualitative criterion.~~ The 85% reduction will be accepted as being met if the effluent exhibits a quantitative value obtained from laboratory analysis not to exceed 40 milligrams per liter (mg/L) (40 parts per million [ppm]) CBOD₅ and 45 mg/L (45 ppm) TSS.

g.c. Total Nitrogen (TN) reduction may be required for ETPS units located in an area of concern as determined through a Nutrient-Pathogen (NP) Evaluation. Permit specific TN reduction levels will be determined through the NP Evaluation. Results for TN are determined through the addition of TKN and Nitrate-Nitrite Nitrogen (TN = TKN + [NO₃+NO₂-N]). TN reduction will be accepted as being met if the effluent exhibits a quantitative value obtained from laboratory analysis not to exceed the TN level stipulated on the subsurface sewage disposal permit.

4.10.3 Operation, Maintenance, and Monitoring

Procedures relating to operation, maintenance, and monitoring are required by IDAPA 58.01.03.009.03 (section 8.1) or may be required as a condition of issuing a permit, per IDAPA 58.01.03.005.14 (section 8.1) to ensure protection of public health and the environment.

1. Operation and Maintenance

- a. Annual maintenance shall be performed on the ETPS unit as described in the ETPS manufacturer's operation and maintenance manual for the ETPS model as submitted under section 4.2.19.
- b. Additional maintenance not specified in the operation and maintenance manual may be required to ensure the ETPS functions properly.
- c. Records of each maintenance visit shall be kept and should include the following information for the primary maintenance visit:
 - i. Date and time.
 - ii. Observations for objectionable odors.
 - iii. Observation for surfacing of effluent from the treatment unit or drainfield.
 - iv. Notation as to whether the system was pumped since the last maintenance visit including the portions of the system pumped, pumping date, and volume.
 - v. Sludge depth and scum layer thickness in the primary septic tank and treatment unit.
 - vi. If responding to an alarm event provide the cause of the alarm and any maintenance necessary to address the alarm situation.



- vii. Filed testing results for any system effluent quality indicators included in the approved sampling plan as submitted under section 4.2.4 or as recommended in section 4.10.3.2.b.
- viii. Record of any cleaning and lubrication.
- ix. Notation of any adjustments to control settings or equipment.
- x. Test results for pumps, switches, alarms, blowers, etc.
- xi. Notation of any equipment or component failures.
- xii. Equipment or component replacement including reason for replacement.
- xiii. Any recommendations for future service or maintenance and reasoning.
- d. Any maintenance visit occurring after the primary annual maintenance visit should only record and address the reason for the visit and the associated activities that occur.

2. Monitoring

- a. Annual effluent monitoring will be required for all ETPS units that discharge to a reduced size drainfield, to a drainfield with a reduced separation distance to ground water limiting layers, and/or to a drainfield located in an environmentally sensitive area (area of concern).
 - i. Annual monitoring included in the Annual Report must occur within the reporting period.
- b. It is recommended that prior to collecting effluent samples from the treatment unit for laboratory analysis that effluent quality indicators be field tested as described in the approved sampling plan for the O&M Entity. All recommendations included in 4.10.3.2.b are recommendations only and should be verified with the treatment technology manufacturer as acceptable with their field sampling plan and as suitable effluent quality indicators. Field testing is recommended to include, but may not be limited to:
 - i. Visual examination for wastewater color, odor, and effluent solids.
 - ii. The following constituents:

<u>Constituent</u>	<u>Acceptable Range</u>
<u>pH</u>	<u>6 to 9</u>
<u>Dissolved Oxygen (DO)</u>	<u>≥ 2 mg/L</u>
<u>Turbidity</u>	<u>≤ 40 NTU</u>

Table 4-5. Recommended field testing constituents for effluent quality indication.



- c. Monitoring samples provided to a laboratory will analytically quantify that the units are operating in compliance, provided samples do not exceed 40 mg/L (40 ppm) for CBOD₅ and 45 mg/L (45 ppm) for TSS.
- i. Results for CBOD₅ and TSS that exceed these levels indicate the ~~pretreatment device~~ ETPS unit is not achieving the required reduction levels. ~~CBOD₅ monitoring will replace Biological Oxygen Demand (BOD₅) monitoring effective January 1, 2008.~~
- b.d. For those systems installed in areas of concern, including nitrogen sensitive areas, or are used to fulfill NP Study Evaluation results and requirements, the following additional constituents may be monitored as stipulated on the permit:
- i. ~~a)~~ a) Total Kjeldahl Nitrogen (TKN)
 - ii. ~~b)~~ b) Nitrate-Nitrite nitrogen (NO₃+NO₂-N)
 - iii. ~~e)~~ e) Results for Total Nitrogen (TN = TKN + [NO₃+NO₂-N]) that exceed the levels stipulated on the installation permit, in the subdivision approval for sanitary restrictions release, or the approved NP Study Evaluation, indicate that the device is failing to achieve the required reductions
- ~~e. Laboratory results that exceed the numerical Total Nitrogen values specified in the Total Nitrogen column of Table 8-1 (section 8.6) indicate that the treatment device is not achieving the required percent nitrogen reduction, specified in the Total Nitrogen Reduction (%) column of Table 8-1.~~
- e. Samples will be collected, stored, transported, and analyzed according to the latest version of *Standard Methods for the Examination of Water and Wastewater* (Rice et. al 2012) and other acceptable procedures.
- i. Each sample will have a Chain-of-Custody sheet, identifying, at a minimum, the sample's source (street address or installation permit number), date and time of collection, and the person who extracted the sample(s).
 - ii. The Chain-of-Custody sheet should also specify the laboratory analyses to be performed on the sample(s).
 - iii. Sample storage and transport will take place in appropriate containers under appropriate temperature control.
- d.f. Samples will be required to be analyzed by a certified laboratory capable of analyzing wastewater according to the acceptable standards identified below, and the monitoring results will be submitted as part of the Annual Report to the local health district. ~~The annual report shall be submitted no later than July 31 of each year for the preceding 12 month period. Reporting period is from July 1 of the preceding year through June 30 of the reporting year.~~



i. Analysis of ETPS effluent shall be performed using the following standards from the *Standard Methods for the Examination of Water and Wastewater* (NSF utilizes the same standards in their Standard 40 and 245 evaluations):

<u>Analysis</u>	<u>Standard Method Number</u>
<u>Total Suspended Solids (TSS)</u>	<u>SM 2540 D</u>
<u>Carbonaceous Biological Oxygen Demand (CBOD₅)^a</u>	<u>SM 5210 B</u>
<u>Total Kjeldahl Nitrogen (TKN)</u>	<u>SM 4500-NH₃ C</u>
<u>Nitrate-Nitrite Nitrogen (NO₃ + NO₂-N)</u>	<u>SM 4500-NO₃⁻ F</u>

a – Person requesting the analysis from the lab must specify the CBOD₅ on the Chain-of-Custody paperwork.
Table 4-6. Standard methods required to be utilized for the analysis of ETPS effluent in annual testing.

ii. Annual reports submitted with laboratory analysis results differing from these standard methods will be rejected.

g. Samples failing to achieve the required effluent constituent levels shall require:

i. Additional operations and maintenance ~~will be required~~ for devices that fail to achieve the above reductions.

ii. Additional sampling ~~will be required~~ to demonstrate the operation and maintenance performed successfully restored the treatment system to proper operation.

1. Sample extraction and analysis should occur within 30 days after servicing the system.

1.2. A maximum of three ~~servicing and subsequent monitoring~~ sampling events, within 90 days, will be allowed to return the system to proper operation. Failure to correct the system within this time frame will result in the system being classified as a *failing system* (Figure 4-8).

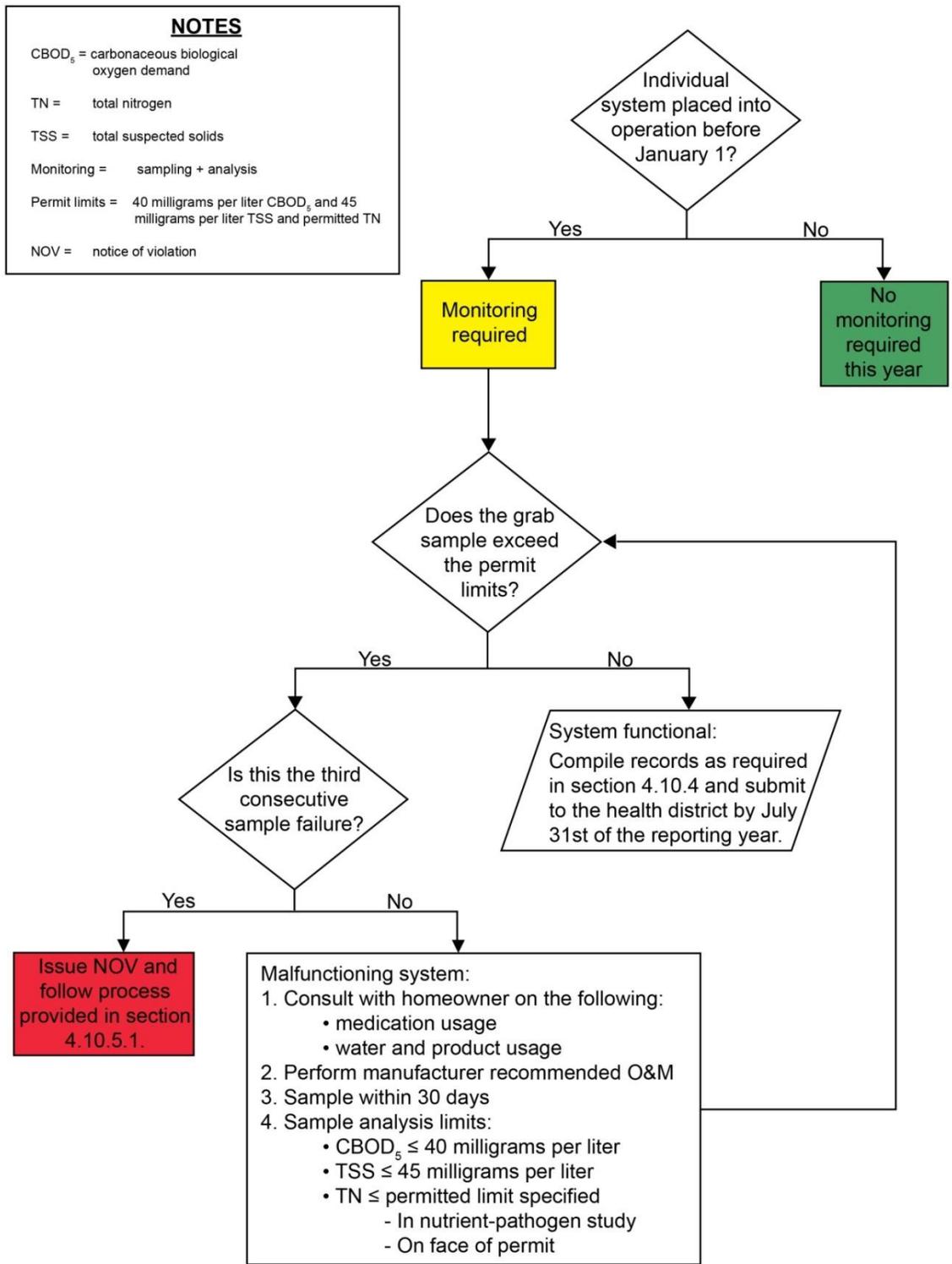


Figure 4-8. ETPS unit individual system sampling process.



4.10.4 Annual Report

The reporting period is from July 1 of the preceding year through June 30 of the reporting year. Annual reporting is the responsibility of the property owner (member), it is recommended that the property owner have their O&M Entity compile and submit their annual report. The property owner responsible under the Individual/Subsurface Sewage Disposal Rules for the ETPS unit shall ensure that the following annual reporting requirements are met:

1. The Annual Report for each property owner shall include the following items:
 - a. A copy of all maintenance records for the reporting period as required under section 4.10.3.1.
 - b. A copy of all certified laboratory records for effluent sampling.
 - c. A copy of each Chain-of-Custody record associated with each effluent sample.
2. If the O&M Entity is fulfilling annual reporting requirements for their members it is recommended that the following additional information be included within the annual report:
 - a. A current list of all members of the O&M Entity within the health district to which the Annual Report was submitted.
 - b. The member list should clearly identify which members the O&M Entity is contracted with for annual reporting requirements and the status of each member in regards to completion of the Annual Reporting requirements.
 - c. If Annual Reporting requirements are not complete for any given member for whom the O&M Entity is responsible for providing the Annual Report an explanation should be included with that member's records within the Annual Report.
3. Annual Report Exemptions:
 - a. A member may be exempt from effluent testing based upon extreme medical conditions.
 - i. The member's Annual Report must include a doctor's note indicating that a resident of the property has been prescribed medication for the reporting period that will prevent the ETPS unit from testing correctly.
 - ii. Annual service and maintenance on the member's ETPS unit shall not be exempt due to medical conditions and record of annual service and maintenance shall still be submitted with the member's Annual Report.



b. An O&M Entity contracted by a member to fulfill Annual Reporting requirements may be exempt from reporting annual service and testing results for individual members if that member's activities fall under section 4.10.6 of this manual.

i. The O&M Entity should still report the activities described under section 4.10.6 of this manual for each member exempt from annual reporting through this section.

4. The annual reporting process:

a. The annual report shall be submitted by the property owner or the O&M Entity on behalf of their member no later than July 31 of each year for the preceding 12-month period to the local health district.

i. The Annual Reports shall be submitted to the local health district that issued the subsurface sewage disposal permit for, and has jurisdiction over, the ETPS unit.

b. The local health district shall provide the O&M Entity a written response within 30 days of receipt of the Annual Report detailing compliance or non-compliance with septic permit requirements.

i. The O&M Entity should inform individual members of their compliance status.

ii. All correspondence from the health districts regarding a noncompliant Annual Report shall be copied to DEQ.

5. Delinquent Annual Reports:

a. If the property owner or their O&M Entity contracted to submit the member's Annual Report does not submit the Annual Report by July 31st of the reporting year the local health district shall send the property owner, or O&M Entity contracted to submit the member's Annual Report, a reminder letter providing a secondary deadline for annual report submission of August 31st of the reporting year. The reminder letter shall detail the report requirements and that failure to submit the Annual Report by the secondary deadline will result in the district forwarding a notice of non-report to DEQ. DEQ may seek any remedy available under the Individual/Subsurface Sewage Disposal Rules, including without limitation requiring the property owner to replace the ETPS unit with another system, as outlined in section 4.10.5.

ii.i. All correspondence from the health district regarding delinquent Annual Reports shall be copied to DEQ.



4.10.5 ETPS System Failure, Disapproval, and Reinstatement

Commercially manufactured wastewater treatment components must be approved by DEQ (IDAPA 58.01.03.009.01). Manufactured ETPS units are subject to this approval. In addition, the installation of an ETPS unit requires a subsurface sewage disposal permit pursuant to IDAPA 58.01.03.005. ETPS units are alternative systems that must be approved by the Director pursuant to IDAPA 58.01.03.004.10. As part of the alternative system approval for ETPS units DEQ defines the specific circumstances under which the ETPS units may be installed, used, operated, and maintained within section 4.10 of the TGM (IDAPA 58.01.03.009.03 and 58.01.03.005.14).

If an ETPS product is not shown to be installed, used, operated, or maintained as described within section 4.10 of the TGM DEQ may pursue enforcement against a property owner and seek those remedies available under IDAPA 58.01.03. Enforcement and remedies against a property owner may include a determination that the ETPS system has failed and the requirement that the property owner replace the ETPS unit with a different system authorized by DEQ. This may include the installation of another ETPS unit approved by DEQ or the engineering and installation of another alternative system that is capable of meeting the requirements of the property owner's subsurface sewage disposal permit. If an ETPS product is not shown to be in compliance or to consistently function in compliance with IDAPA 58.01.03 and the operation and maintenance requirements outlined in section 4.10 of the TGM, DEQ may disapprove the ETPS unit. Reasons for DEQ enforcement, which may include seeking remedies against a property owner or disapproval of an ETPS manufacturer's technology as outlined herein, but are not limited to, the following:

1. Failure to submit an Annual Report by the secondary deadline of August 31st.
2. If an O&M Entity's the Annual Reports for a particular ETPS technology identifies a malfunctioning system rates of 10% or more.
 - a. Malfunctioning systems are defined as any system that fails to receive annual maintenance or exceeds the effluent reduction levels for any constituent required as part of the septic permit (i.e., TSS, CBOD₅, or TN).
3. If a property owner's ETPS unit has been determined to be a failing system.
 - a. Failing ETPS units are defined in section 4.10.3(2)(g).

4.10.5.1 Failing System Enforcements

The regulatory authority shall follow the following procedures upon determination that an ETPS unit is a failing system (Figure 4-9):

1. When the regulatory authority is notified that a system is failing a Notice of Violation (NOV) shall be issued to the property owner. The property owner shall have the opportunity to hold a compliance conference with the regulatory authority to enter into a consent order.



2. Consent orders should allow a property owner a 12 month period in which to return the system to proper operation or replace the failing system.
 - a. Over this 12 month period the property owner should have their O&M Entity service the ETPS unit at least monthly.
 - b. Monthly effluent samples should be required to be taken by the O&M Entity until the ETPS unit passes 3 consecutive monthly samples.
 - i. Three consecutive passing monthly samples taken one month apart from one another would be cause for the regulatory authority to terminate the consent order and NOV, and reclassify the system as compliant.
 - c. Operation and Maintenance records as described in section 4.10.3.1, certified laboratory records, and Chain-of-Custody records for each sample should be submitted to the regulatory authority on a monthly basis as part of the consent order.
 - d. If the ETPS unit is not capable of producing 3 consecutive monthly samples over the 12 month period the system shall be replaced with another alternative system capable of meeting the effluent quality requirements based upon applicable site conditions.
 - a.e. Appropriate replacement systems may include a sand mound with 24 inches of sand beneath the absorption bed, intermittent sand filter, recirculating gravel filter, or a different ETPS unit that is approved and has an active O&M Entity.

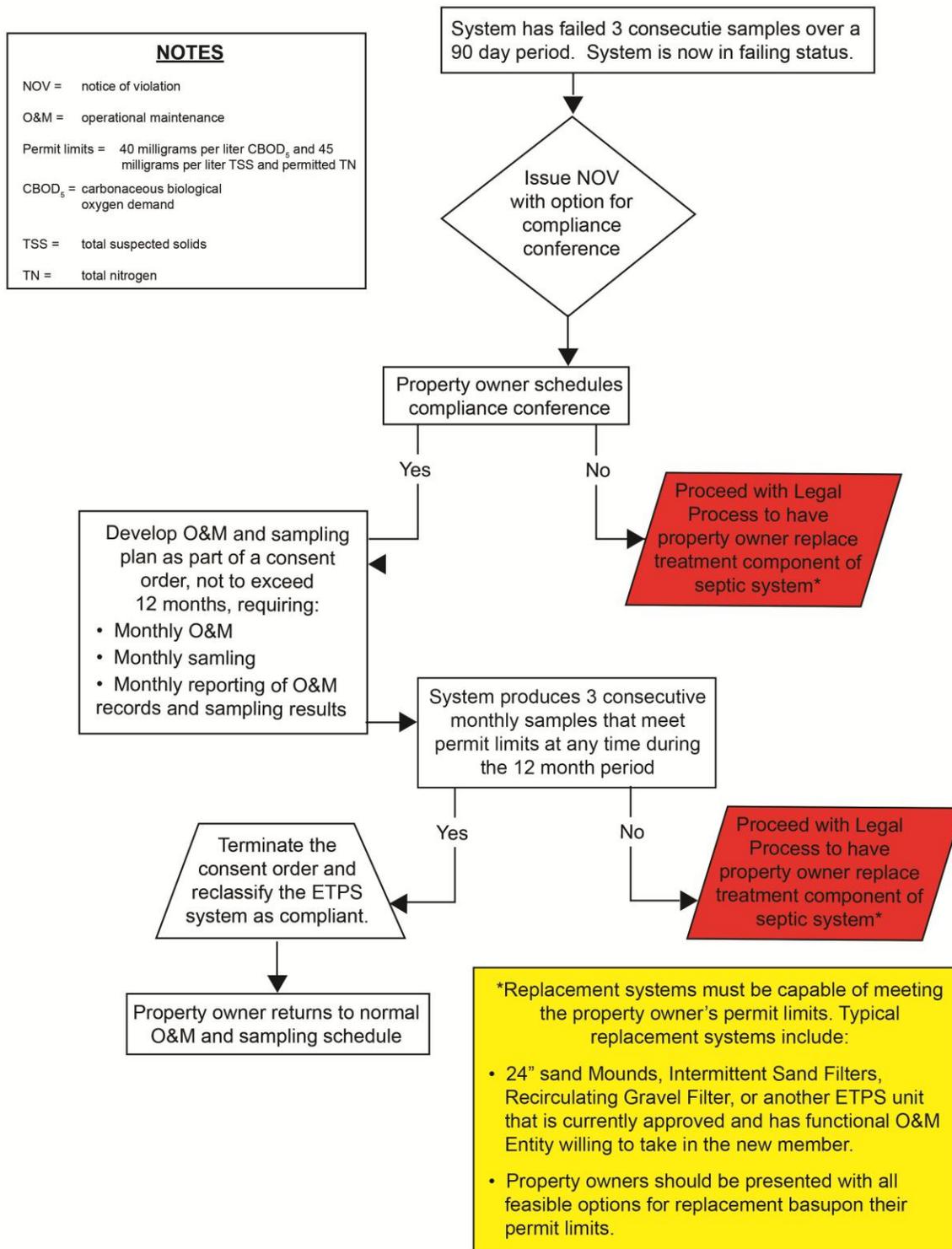


Figure 4-9. ETPS failing system enforcement flowchart.



4.10.5.2 ETPS Product Disapproval

In addition to determining a particular system is a failing system as set forth in section 4.10.5.1, if DEQ determines that an ETPS unit cannot consistently function in compliance with IDAPA 58.01.03, DEQ may disapprove the product (IDAPA 58.01.03.009.04). A notice of DEQ's intent to disapprove the product will be detailed in writing following Idaho Code, title 67, chapter 52, and sent to the ETPS product manufacturer, O&M Entity, and the health districts. The ETPS manufacturer will be allowed an opportunity to respond prior to product disapproval. Upon disapproval of an ETPS product the health districts shall not issue septic system permits on new applications for ETPS systems from the disapproved product manufacturer supplied by a specific O&M Entity. Monitoring, reporting, and servicing requirements of existing ETPS unit installations will not be affected by the product disapproval (Figure 4-10).

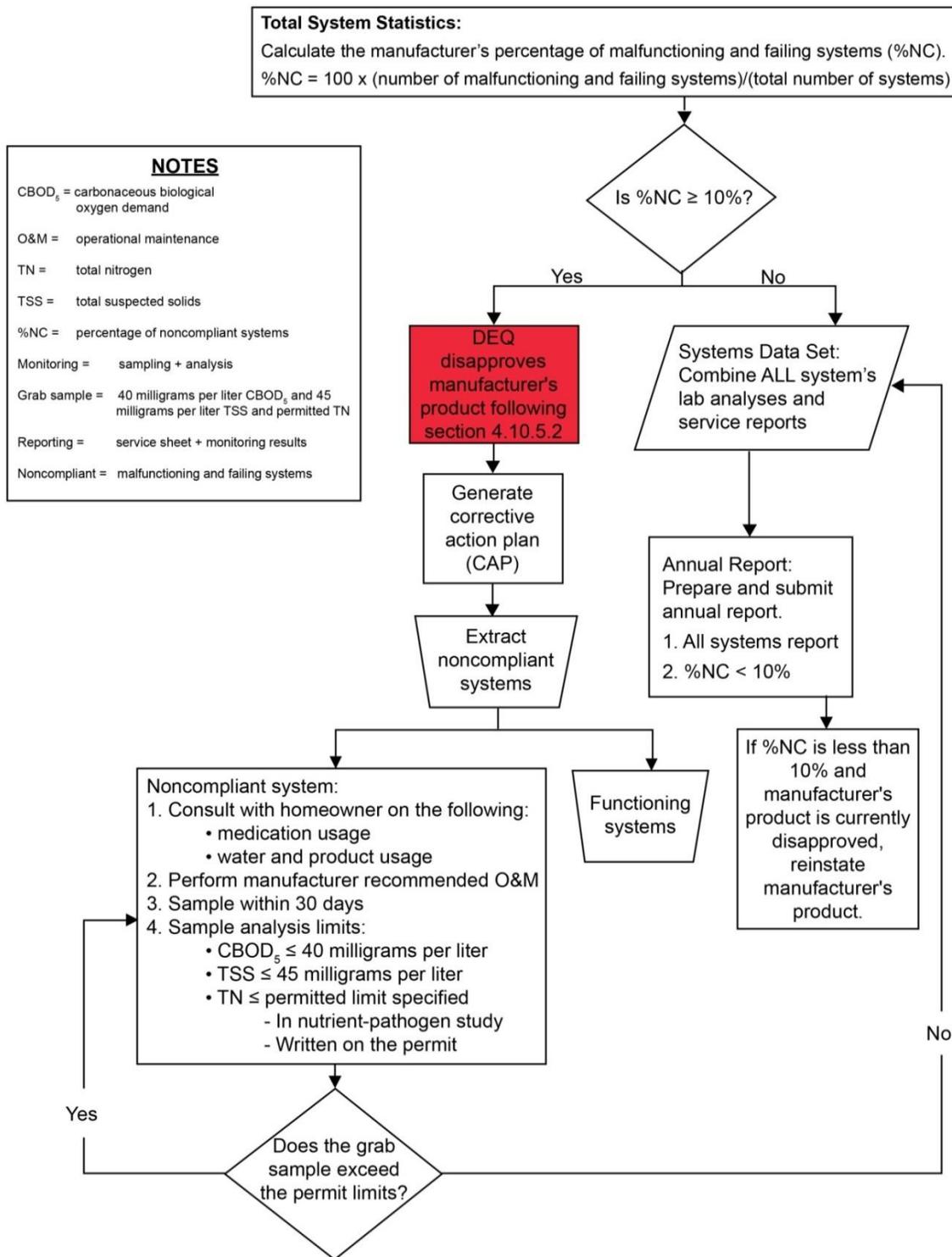


Figure 4-910. ETPS product disapproval process based upon annual reports.



4.10.5.3 ETPS Product Reinstatement

Upon ETPS product disapproval DEQ will provide the opportunity for the ETPS product manufacturer to enter into a Corrective Action Plan (CAP) for the purposes of product reinstatement. The CAP should establish the time frame to return the noncomplying or failing systems to proper operation. The suspension product disapproval will remain in effect until the malfunctioning and failing system rate for the ETPS manufacturer's technology is below 10%.

4.10.6 Member Refusal of Maintenance or Testing Requirements

It is the responsibility of the individual Nonprofit O&M Entity members (property owners) to ensure the O&M Entity is capable of performing the necessary annual maintenance and effluent testing required for their ETPS unit. Failure of an individual member to permit the O&M Entity from carrying out the required services is considered a violation of IDAPA 58.01.03.012.01. The following activities from a property owner toward their O&M Entity may be considered as refusal of service actions by a member, and may not be limited to:

1. Refusal to allow annual maintenance or effluent quality testing (e.g., refusal to pay annual dues preventing the financial capability of service, denial of property access, etc.).
2. Refusal to maintain the ETPS unit in operating condition (e.g., refusal to replace broken components, refusal to provide electricity to the unit, etc.).
3. If the refusal of service continues through the Annual Reporting Period the Nonprofit O&M Entity should substitute the following documents in the Annual Report for members refusing service that the O&M Entity is contracted with to submit their Annual Report:
 - a. Copies of all correspondence and associated certified mail receipts documenting the property owner's receipt of the correspondence regarding the refusal of service. Refusal of service by a member through non-payment should include documentation of a lien being placed on the member's property.
 - i. If the documentation is not included within the Annual Report, there will be insufficient documentation of the property owner's refusal to allow maintenance and monitoring, and therefore, the lack of maintenance and monitoring may count against the malfunctioning rate for the ETPS technology.

4.10.6.1 Refusal of Service Enforcement Procedures

Upon receipt of an Annual Report that shows that individual O&M Entity members have refused to allow maintenance and monitoring as set out in section 4.10.6 of this guidance the following guidelines shall apply:



1. The regulatory authority shall issue Letter 1 and the associated enclosure that was provided in the DEQ Program Directive dated xxxx.
 - a. This letter shall be sent to the property owner via certified mail and copied to the associated O&M Entity.
 - b. It is the property owner's responsibility to work with the regulatory authority and their O&M Entity to address their delinquent responsibilities. The O&M Entity should contact the regulatory authority and associated property owner 30 days after receipt of Letter 1 informing the regulatory authority of the property owner's voluntary compliance status.
2. If the property owner fails to voluntarily comply within the 30 day timeframe the regulatory authority shall issue Letter 2 that was provided in the DEQ Program Directive dated xxxx.
 - a. This letter shall be sent to the property owner via certified mail and copied to the associated O&M Entity.
 - b. It is the property owner's responsibility to work with the regulatory authority and their O&M Entity to address their delinquent responsibilities. The O&M Entity should contact the regulatory authority and associated property owner by the voluntary compliance date provided within Letter 2 informing the regulatory authority of the property owner's voluntary compliance status.
3. If the property owner fails to voluntarily comply by the date provided in step 2 of this process the regulatory authority shall issue a Notice of Violation to the property owner to ensure compliance with the property owner's subsurface sewage disposal permit requirements in regards to the ETPS unit.
- ~~1. DEQ will suspend the O&M Entity and require that the O&M Entity, affected homeowners, and service provider, in cooperation with the local health district, enter into a Corrective Action Plan (CAP). The CAP should establish the time frame to return the noncomplying systems to proper operation. The suspension will remain in effect until the malfunctioning system rate is below 10%. Suspension will only prevent issuing additional O&M agreements. Existing system monitoring, reporting, and servicing requirements will not be affected by a suspension (Figure 4-9).~~
4. If the system is experimental, the system owner will provide a waiver of liability absolving the Department and the health districts of any liability arising from operation or malfunction of the system.



4.10.34.10.7 Design of ETPS Units

Procedures relating to design are required by IDAPA 53.01.03 (section 8.1) or may be required as permit conditions, as appropriate, to ensure protection of public health and the environment.

1. All materials will be durable, corrosion resistant, and designed for the intended use.
2. All electrical connections completed on site shall comply with the National Fire Protection Association (NFPA) Standard NFPA 70, National Electrical Code, as required by the Idaho Division of Building Safety, Electrical Bureau.
3. Design for each specific application should be provided by a PE licensed in the State of Idaho ~~specializing in environmental or sanitary engineering.~~
4. The system's aerobic treatment section will be preceded by ~~a primary clarifier~~ an appropriately sized septic tank. The ~~primary clarifier~~ septic tank may be either a separate septic tank, a volume integral with the system's package, or a combination of internal clarifier volume coupled with an external tank. The ~~primary clarifier~~ septic tank shall provide the minimum tank capacity for residential facilities as specified in IDAPA 58.01.03.007.07.a, or for nonresidential facilities a minimum of 2-days hydraulic residence time (HRT) as stipulated in IDAPA 58.01.03.007.07.b. Timed dosing from the clarifier to the aerobic treatment unit is preferred, and highly recommended, to maintain a constant source of nutrients for the system's aerobic microbes.

4.5. Manufactured and packaged mechanical treatment devices will be required to prove that the specified equipment model:

- a. Has successfully completed National Sanitary Foundation (ANSI/NSF) standard 40 testing, or
- b. Has successfully completed an EPA-sanctioned Environmental Technology Verification (ETV) test, or
- c. ~~Was designed by a PE licensed in the State of Idaho specializing in sanitary or environmental engineering.~~

4.10.44.10.8 Construction

Procedures relating to construction are required by IDAPA 58.01.03 (section 8.1) or may be required as permit conditions, as appropriate, to ensure the protection of public health and the environment.

1. Installation
 - d. ~~The system shall be installed by an appropriately qualified installer. IDAPA 58.01.03.003.35 defines system as "Beginning at the point of entry physically connected piping, treatment devices, receptacles, structures, or areas of~~



- ~~land designed, used or dedicated to convey, store, stabilize, neutralize, treat, or dispose of blackwaste or wastewater.” Consequently, the system includes the drainfield.~~
- a. A licensed complex system installer shall be required to install an ETPS unit and all other portions of the septic system connected to the ETPS unit, or that the ETPS unit discharges to (IDAPA 58.01.03.006.01.b).
 - b. A public works contractor may install an ETPS unit if they are under the direct supervision of a PE licensed in the State of Idaho.
 - c. Licensed plumbers and electricians will be required to install specific devices and components for proper system operation. If the device requires any on-site fabrication or component assembly, a public works contractor should be used.
 - e.d. A sample port will be installed in the effluent line after the aerobic treatment unit.

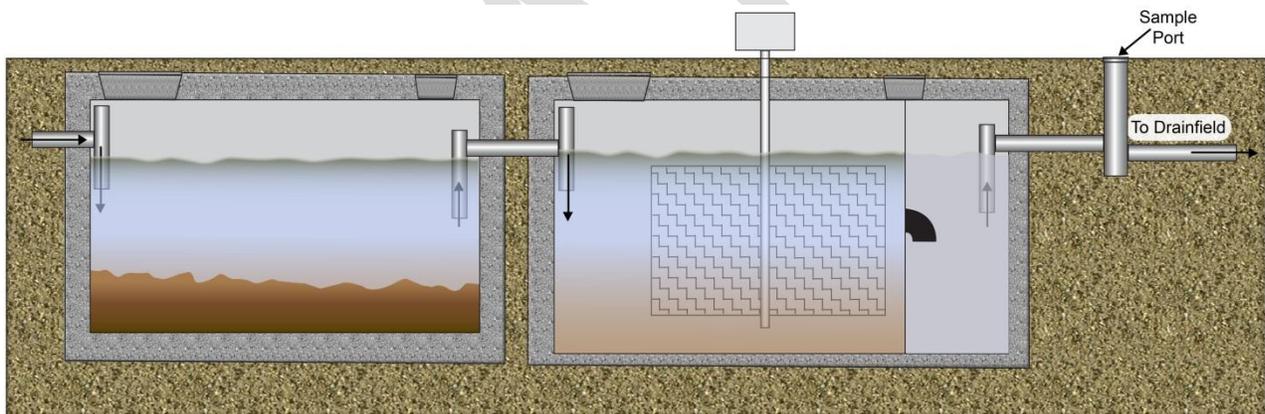


Figure 4-11. Sampling port example.

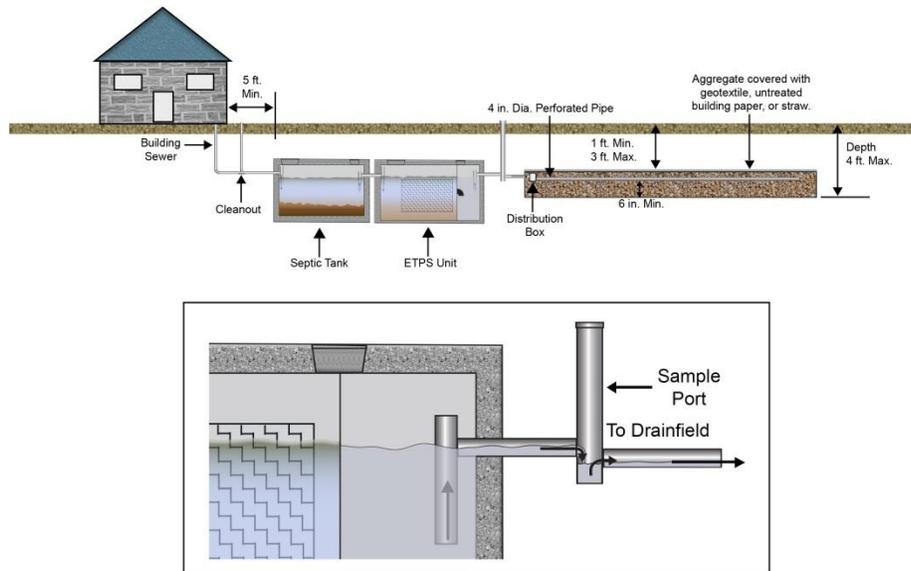


Figure 4-12. Sampling port and drainfield.

2. Within 90-30 days of completing the installation the property owner shall provide certification to the regulatory authority, from their O&M Entity, that the system has been installed and is operating in accordance with design and/or the manufacturer's recommendations (IDAPA 58.01.03.005.15).

- a. The regulatory authority shall hold the finalization of the subsurface sewage disposal permit until the certification of proper installation and operation is received.

~~Note: If a health district has questions regarding application of this guidance document to a proposed system, contact DEQ.~~

Figure 4-8 shows the ETPS sampling process for an individual system, ~~and~~ Figure 4-9 shows the reporting-enforcement process for ~~an O&M Entity~~ a failing system, Figure 4-10 shows the ETPS product disapproval process, and Figure 4-11 shows the placement of a sampling port after the ETPS unit.



Appendix D

Dear Extended Treatment Package System Owner,

The Department of Environmental Quality (DEQ) would like to take this opportunity to provide some information about the treatment component of your septic system and remind you of the annual service and testing of the treatment unit that is vital to your systems overall functionality and required as a condition of your septic permit. The issuance of the septic permit for your property required a treatment component in order to install the drainfield. Without the septic permit the construction of buildings necessitating sewer connections on your property would not be possible.

Extended Treatment Package Systems provide pretreatment to your wastewater prior to its discharge to the drainfield portion of your septic system. These treatment units reduce waste strength and nutrients (particularly nitrogen) in wastewater. For more information on these systems and your drainfield please view the *Aerobic Treatment Systems and Drainfields: What You Need to Know* brochure on the DEQ website located at http://www.deq.idaho.gov/media/657393-aerobic_treatment_systems_and_drainfields_brochure.pdf.

Per your member agreement contract you are required to work with your Operation and Maintenance Entity and Service Provider to ensure that annual servicing and testing of your treatment unit is scheduled. Protection of public health and the environment is a team effort. Your participation in this program is a critical aspect to its success and is a requirement of the septic system permit for your property.

Thank you for your cooperation.

Sincerely,

The Idaho Department of Environmental Quality



Appendix E

[Date]

[Certified Mail No.]

[Name]

[Address]

[City, State]

Re: Refusal of Service for Extended Treatment Package System

Dear [Name],

It has come to our attention that you have not had your extended treatment package system (ETPS) [maintained and/or tested] for this reporting year. The subject property is located at [address or legal description]. It is a requirement of the septic permit issued for your property that the ETPS unit has annual maintenance performed and the effluent quality tested through your Operation & Maintenance Entity (O&M Entity) and the O&M Entity's associated Service Provider. According to our records your O&M Entity and Service Provider contacts are:

O&M Entity:

Service Provider:

Entity Contact Name

SP Name

Entity Business Name

SP Business

Entity Address

SP Address

Phone Number

Phone Number

Your ETPS unit is under contract with this O&M Entity through a Member Agreement. This agreement is recorded with your County. It is the homeowner's responsibility to ensure the ETPS unit is provided with maintenance, and that the effluent quality discharged from the unit is tested annually. Failure to have annual maintenance performed and effluent quality tested for your ETPS unit places you in violation of the Subsurface Sewage Disposal Rules. Please work with your O&M Entity to schedule your annual maintenance and effluent quality testing. If you have any questions regarding your Member Agreement or the necessary requirements to schedule your maintenance and testing appointment please contact your O&M Entity. If you have questions concerning regulatory requirements regarding your ETPS system please contact [insert department name] at [insert phone number]. Your cooperation in meeting the requirements of your septic permit is appreciated.

Sincerely,

[Regulator Name]

[Regulator Title]

c: [O&M Entity]

enclosure



Dear Extended Treatment Package System Owner,

The Department of Environmental Quality (DEQ) would like to take this opportunity to provide some information about the treatment component of your septic system and remind you of the annual service and testing of the treatment unit that is vital to your systems overall functionality and required as a condition of your septic permit. The issuance of the septic permit for your property required a treatment component in order to install the drainfield. Without the septic permit the construction of buildings necessitating sewer connections on your property would not be possible.

Extended Treatment Package Systems provide pretreatment to your wastewater prior to its discharge to the drainfield portion of your septic system. These treatment units reduce waste strength and nutrients (particularly nitrogen) in wastewater. For more information on these systems and your drainfield please view the *Aerobic Treatment Systems and Drainfields: What You Need to Know* brochure on the DEQ website located at http://www.deq.idaho.gov/media/657393-aerobic_treatment_systems_and_drainfields_brochure.pdf.

Per your member agreement contract you are required to work with your Operation and Maintenance Entity and Service Provider to ensure that annual servicing and testing of your treatment unit is scheduled. Protection of public health and the environment is a team effort. Your participation in this program is a critical aspect to its success and is a requirement of the septic system permit for your property.

Thank you for your cooperation.

Sincerely,

The Idaho Department of Environmental Quality



Appendix F

[Date]

[Certified Letter No.]

[Name]

[Address]

[City, State]

Re: Voluntary Deadline to Comply with ETPS Maintenance and Effluent Testing Requirements

Dear [Name],

[Regulatory Agency Name] has been informed that you are refusing to meet your responsibility and requirements surrounding your extended treatment package system (ETPS). As described in this Department's letter sent to you dated [insert letter 1 date] you are responsible for having annual maintenance performed on your ETPS unit and for annual testing of effluent quality discharged by the unit. Per *IDAPA 58.01.03.002.04.a.i* it is the responsibility of the property owner to treat and dispose of wastewater generated on their property in accordance with their subsurface sewage disposal permit.

You are responsible for the completion of your unit's annual maintenance and effluent quality testing. The results of the annual maintenance and testing are required to be submitted to this Department by July 31st of each year. As of the issuance of this letter you are delinquent in meeting these requirements by [insert number of days past July 31st]. This Department is providing you a 30 day window to voluntarily meet the requirements and responsibilities of your septic permit (see enclosure). You have until [insert voluntary compliance date] to accomplish your required annual maintenance and effluent quality testing. After this date this Department may issue a Notice of Violation to you for failure to meet the requirements of *IDAPA 58.01.03.002.04.a.i*, *58.01.03.004.01*, *58.01.03.005.14*, and *58.01.03.012.01-03*. To view the requirements of these Rules please reference the Individual/Subsurface Sewage Disposal Rules located at <http://www.deq.idaho.gov/water-quality/wastewater/septic-systems.aspx>.

Please contact your O&M Entity to schedule your required annual maintenance and testing of effluent quality.

O&M Entity:

Entity Contact Name

Entity Business Name

Entity Address

Phone Number

Your O&M Entity will be required to report the status of the completion and compliance of these activities on [insert voluntary compliance date]. Your cooperation in meeting the requirements of your septic permit is appreciated.



Sincerely,

[Regulator Name]

[Regulator Title]

c: [O&M Entity]

enclosure (septic permit)

DRAFT