

Dear Senators LODGE, Broadsword & LeFavour, and
Representatives BLOCK, Nielsen & Rusche:

The Legislative Services Office, Research and Legislation, has received the enclosed
rules of the Public Health Districts:

IDAPA 41.04.02 - Rules for Community Subsurface Sewage Disposal Systems

(Docket #41-0402-0901) (Repeal)

41.04.03 - Rules for On-Site Sewage Treatment Systems

(Docket #41-0403-0901) (Repeal).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 9-8-09. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 10-6-09.

_____The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Research & Legislation Staff - Paige Alan Parker

DATE: August 18, 2009

SUBJECT: Public Health District No. 4 - IDAPA 41.04.02 - Rules for Community Subsurface Sewage Disposal Systems (Docket No. 41-0402-0901) (Proposed Chapter Repeal); IDAPA 41.04.03 - Rules for On-Site Sewage Treatment Systems (Docket No. 41-0403-0901) (Proposed Chapter Repeal)

By these proposed rule dockets (Docket Nos. 41-0402-0901 and 41-0403-0901), Public Health District No. 4 seeks to repeal IDAPA chapters 41.04.02 (Rules for Community Subsurface Sewage Disposal Systems) and 41.04.03 (Rules for On-Site Sewage Treatment Systems) (hereinafter collectively “proposed chapter repeals). Public Health District No. 4 (hereinafter “District”) bases its authority to repeal this rule chapter on section 39-416(1), Idaho Code, which allows a public health district board to adopt, amend or rescind rules and standards as it deems necessary to carry out the purposes and provisions of the Public Health Districts Act, codified at chapter 4, title 39, Idaho Code (hereinafter “Act”). Section 39-414(2), Idaho Code, grants public health districts the power to do all things required for the preservation and protection of the public health and such other things delegated by the Director of the Department of Health and Welfare or the Director of the Department of Environmental Quality.

According to the District, no fee or charge is imposed by the proposed rule. The District states that there is no anticipated impact to the general fund greater than \$10,000 during the fiscal year as a result of the proposed rule. The District states that public hearings will be held if requested in writing by 25 persons, a political subdivision or an agency not later than September 16, 2009. The District states that all written comments must be delivered to the District on or before September 24, 2009. No negotiated rulemaking was conducted because the nature of the rulemaking is to repeal these chapters.

ANALYSIS

The District states that the proposed chapter repeals apply only to the District and that IDAPA 58.01.03, Individual/Subsurface Sewage Disposal Rules, promulgated by the Department of Environmental Quality (DEQ) and applicable to their entire state, promote more consistent and effective statewide regulation of subsurface sewage disposal. According to the District, the seven public health districts have been delegated certain responsibilities for regulation of subsurface sewage disposal pursuant to IDAPA 58.01.03 by the Director of DEQ.

SUMMARY

The District has the authority under section 39-416(1), Idaho Code, to repeal chapters 41.04.02 and 41.04.03. Pursuant to section 39-414(2), Idaho Code, the public health districts are empowered to do such other things as delegated by the Director of DEQ.

cc: Central District Health Department
Russell A. Duke, Director

Please return to the O. A. R. by 5:00 p.m., Wednesday, August 19, 2009

IDAPA 41 - PUBLIC HEALTH DISTRICTS

41.04.02 - RULES FOR COMMUNITY SUBSURFACE SEWAGE DISPOSAL SYSTEMS

DOCKET NO. 41-0402-0901 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-416(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule was made effective on July 1, 1993 and applied only to Public Health District 4. On October 17, 2007, all seven public health districts were delegated certain responsibilities for regulation of subsurface sewage disposal by the Idaho Department of Environmental Quality, pursuant to IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." This request is to repeal IDAPA 41.04.02 because the standards provided in IDAPA 58.01.03 promote more consistent and effective statewide regulation of subsurface sewage disposal.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, negotiated rulemaking was not conducted because the nature of the rulemaking is to repeal the chapter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Russell A. Duke at 327-8501.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2009.

DATED this 21st day of July, 2009.

Russell A. Duke
Director
Central District Health Department
707 N. Armstrong Pl.,
Boise, Idaho 83704-0825
Ph: 327-8501, Fax: 327-8500

IDAPA 41.04.02 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 41 - PUBLIC HEALTH DISTRICTS

41.04.03 - RULES FOR ON-SITE SEWAGE TREATMENT SYSTEMS

DOCKET NO. 41-0403-0901 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-416(1), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 2009.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule was made effective on May 6, 1990 and applied only to Public Health District 4. On October 17, 2007, all seven public health districts were delegated certain responsibilities for regulation of subsurface sewage disposal by the Idaho Department of Environmental Quality, pursuant to IDAPA 58.01.03 Individual/Subsurface Sewage Disposal Rules. This request is to repeal IDAPA 41.04.03 because the standards provided in IDAPA 58.01.03 promote more consistent and effective statewide regulation of subsurface sewage disposal.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the nature of the rulemaking is to repeal the chapter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Russell A. Duke at 327-8501.

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DATED this 21st day of July, 2009.

Russell A. Duke
Director
Central District Health Department
707 N. Armstrong Pl.,
Boise, Idaho 83704-0825
Ph: 327-8501, Fax: 327-8500

IDAPA 41.04.03 IS BEING REPEALED IN ITS ENTIRETY.