

April 8, 2025

Mary Anne Nelson
Idaho Department of Environmental Quality
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Boise, ID 83706
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Re: Docket No. 58-0116-2501 Written Comment

Dear Ms. Nelson,

Thank you for accepting written comments to IDAPA Proposed Rule 58.01.16, Docket No. 58-0116-2501. We understand that the criteria of Zero-Based Regulation is “to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, increase clarity and ease of use, and maintain state program approval.” We also understand from the meeting held on April 1, 2025, that the current focus of the draft extends through Section 425.

We have worked with many wastewater communities in our region and offer the following comments for your consideration of the Zero-Based Regulation criteria (through Section 425):

58-0116-2501-010.35 Material Modification. The deleted sentence of “Maintenance and repair performed on the system and the replacement of valves, pumps, or other similar items with new items of the same size and type are not considered a material modification” provides a clearer distinction between what is considered a material modification than the proposed sentence of “Maintenance as outlined in the approved operation and maintenance manual is not a material modification”. Additionally, many smaller systems either do not have a currently approved O&M manual or the prescribed replacement (especially in an emergency) may not be clearly defined in the O&M. This appears to add a regulatory burden to smaller entities. We request the Department consider revising this language accordingly or consider keeping the original language and adding “or as outlined by the system’s approved O&M”.

58-0116-2501-010.57 Preliminary Engineering Report. Broadening the scope of system modifications that require a PER to include “material modifications” as revised above appears to increase regulatory burden. We understand this is proposed to coordinate with the Drinking Water Rules (58.01.08); however, in practice we have seen that PERs are now required for minor system modifications that have been interpreted as “material modifications”. This now adds another requirement for minor improvements to systems that typically make implementation more challenging (partially due to the lack of review time stipulated by IDEQ or in Idaho Code, commented further below).

58-0116-2501-410. Facility Plan. There is not currently a review time included in the rules. This presents a significant planning challenge for many entities who must complete or update an existing Facility Plan prior to submitting a PER and/or Plans and Specifications for critical projects. Open-ended review times inhibit entities from completing improvements required to protect public health and safety in a reasonable timeframe. We request the Department consider adding a timeframe or potentially introducing a review fee. Review fees, similar to the IPDES fees, provide for faster review time by Department staff (funding additional Department staff to complete reviews) and encourage high-quality documents to be submitted to the Department (reduction on repeat reviews). This has been successfully implemented in Washington (Dept. of Health).

58-0116-2501-411.01. Preliminary Engineering Reports. Refer to comment above on Facility Plans (discussing review time) and on definition of PERs. Additionally, by eliminating the word “major” from the last sentence in this section expands the projects that will require submittal of a PER. As seen on the implementation of the new Drinking Water Rules, this has added a regulatory burden to entities. We request the Department consider reverting this as originally drafted and consider the same on the Drinking Water Rules.

Please contact us if you have any questions or concerns related to these comments. We can be reached at 208-664-9382 or wc@welchcomer.com.

Sincerely,



Ashley Williams, P.E.
Senior Project Manager



Steve Cordes, P.E.
Principal

AMW/ba

cc: Katy Baker-Casile, PE, Idaho Department of Environmental Quality
Chris Westerman, Idaho Department of Environmental Quality