



April 11, 2025

Idaho Department of Environmental Quality
1404 N. Hilton
Boise, ID 83706

Attn: Mary Anne Nelson PhD

RE: Idaho Department of Environmental Quality (IDEQ) Zero-Based Negotiated
Rulemaking - Wastewater 58-0116-2501

Ms. Nelson:

The City of Post Falls (City) obtained a copy of the Negotiated Rule Draft No. 1, Docket No. 58-0116-2501, 58.01.16 – Wastewater Rules for review, which was posted to the IDEQ website on March 25, 2025 and discussed on April 1, 2025. The City appreciates the opportunity to participate in reviewing draft revisions to this rule. Below are our initial comments and recommendations for your consideration.

1. Definition of Material Modification

Section 010. Definitions #35. Material Modification. The definition for Material Modifications has been revised to read:

***Material Modification.** Those modifications of an existing wastewater system that increase system capacity or alter the methods or processes employed. Increasing system capacity occurs by increasing pumping capacity of a system or the number of service connections within the system. Altering methods or processes employed occurs by adding new or altering existing wastewater system components to satisfy increase in wastewater flow of the system or changing engineering design intent of the wastewater collection or treatment system. Maintenance as outlined in the approved operation and maintenance manual, or maintenance that does not meet the criteria of a material modification described in this definition, is not a material modification. Like-kind replacement is not considered a material modification.*

Ambiguous language such as “changing engineering design intent” complicates the ability to determine if a proposed project will materially modify a wastewater collection or treatment system. The City proposes the following definition:

Material Modification. *Those modifications to a wastewater system that increase system capacity or alter methods or processes employed. Increasing system capacity occurs by increasing pumping or treatment capacity of a system or the number of service connections within the system. Altering methods or processes employed occurs by adding or removing system components which are covered by the Facility and Design Standards of these rules.*

2. Duration of Construction Activities

Section 400.03 Plan and Specification Review bullet point “a”. This section has added language to state:

If construction is not completed within twelve (12) months of the Department’s final approval, an extension or re-approval must be obtained from the Department. The Department may require re-submittal of all or part of the plans and specifications prior to issuing an extension or re-approving the plans and specifications. The Department may, at its discretion, issue an approval or re-approval for a duration of more than twelve (12) months based on documentation provided by the design engineer that completion of construction is anticipated to be more than twelve (12) months.

The duration of bidding, material procurement, and construction of wastewater system components covered by the IDAPA 58.01.16 Wastewater Rules routinely takes longer than twelve (12) months. Those projects which can be constructed within twelve (12) months would likely be nearing substantial completion around the time resubmittal of project plans and specifications would be required. Modifications to project contracts and other documents at this point in construction requires change orders adding cost and time to the project. It is also unclear if construction is allowed to continue while the Department would be conducting their review of the resubmitted documents adding further ambiguity to the process.

Modifying the rules to require project completion, rather than commencement, within twelve (12) months of the Department’s final approval runs counter to typical construction timeframes and industry accepted practices. The City would propose the following language be utilized within Section 400.03:

Construction must commence as soon as practical after approval, and if construction does not commence within twelve (12) months of the Department’s final approval, the Department may require re-submittal of all or part of the plans and specifications for review.

3. Sanitary Sewer Overflows

Current municipal IPDES permits contain standard language that obligates permit holders to report occurrences of noncompliance by telephone within 24 hours of becoming aware of such events. Specifically, the permits require the reporting of any overflow prior to the treatment works that falls under the permittee's ownership or operational control, or any overflow from a contributing collection system that is influenced by the permittee’s infrastructure.

The permittee must report the following occurrences of noncompliance by telephone within 24 hours of the time the permittee becomes aware of the circumstances.....

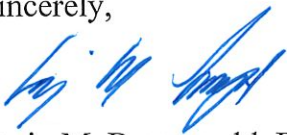
Any overflow prior to the treatment works over which the permittee has ownership or operational control; or an overflow from a contributing collection system that affected or was affected by the permittee's operation or infrastructure. An overflow is any spill, release, or diversion of municipal sewage including:

- a. An overflow that results in a discharge to waters of the United States; or*
 - b. An overflow of wastewater, including a wastewater backup into a building (other than a backup caused solely by a blockage or other malfunction in a building service line), or discharged to the soil's surface that does not reach waters of the United States.*
- The permittee must report these...*

The City requests the addition of a definition for "sanitary sewer overflow" within IDAPA 58.01.16, "Wastewater Rules." Furthermore, defining a *de minimis* category of sanitary sewer overflow that does not requiring reporting would ensure only those events which pose a risk to public health and the environment are reported. The current situation allows for a permittee to be deemed in significant noncompliance with permit requirements while the situation may be either beyond the reasonable control of the permittee or for which no risk to public health or the environment can be identified.

As stated, the above are initial thoughts and concerns identified by the City at this time. The City appreciates the opportunity to provide IDEQ comments on the Wastewater rule chapter draft comments.

Sincerely,



Craig M. Borrenpohl, P.E. MPA
Utilities Manager – City of Post Falls