

## Response to Comments:

### 58-0116-2501 Negotiated Rulemaking Meeting #2

Commenter #	Commenter
1	Hawkins Co.
2	Post Falls
3	Meridian
4	JUB
5	Boise

Commenter #	Section	Comment	Response	Reasoning
5	General	The city acknowledges that the volume of material to be reviewed was substantial; however, we were disappointed in the inability to discuss submitted comments. To enhance future collaboration, the city suggests scheduling an additional meeting for comprehensive regulations of this nature, as stakeholders would greatly benefit from the opportunity to review and discuss the comments.	Thank you for your comment	DEQ acknowledges the abbreviated time schedule and sincerely apologizes for the mistake that led to the comment response from the first meeting not being posted prior to the second meeting. The third scheduled meeting is intended to allow an opportunity for parties to have their comments fully addressed in person in addition to the written responses provided.

Commenter #	Section	Comment	Response	Reasoning
1	001	The word "discharge" should be kept with "and disposal" added after discharge and not just substituting disposal for discharge. They seem to have different meanings and applications within the rules. Discharge is the output of any constituents where disposal is the term normally used to dispose of or take out of the wastewater system past the point of final treatment and testing by turning the treated water into a subsurface, surface or recycle/resuse area;	Please see addition of definition at 010.20 for Disposal	Agree that discharge and disposal are not the same thing. Added a definition for disposal that reflects the overall disposition of wastewater.
1	008.14	This subsection should be retained;	No changes made.	Guidance documents, while helpful in implementing rule language, are not rules and do not belong in rule chapters. Under the current directive to remove unnecessary or outdated language, this section has been identified for removal. The guidance document will remain available on DEQ's website and for review at DEQ offices.
2	010	To improve clarity in responsibilities and reporting requirements for sanitary sewer overflows, the City requests the inclusion of definitions for "contributing collection system" and "overflow" within IDAPA 58.01.16, Wastewater Rules	Thank you for the comment.	DEQ will continue to work with the cities on ensuring proper regulatory responses for sanitary sewer overflows. However, this is a topic that is more relevant to the IPDES and Recycled Water Rules.

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1	010.10 and .11	"Class B" should be added;		Class B is not referenced in IDAPA 58.01.16 but is in 58.01.17. Therefore, the definition is more appropriate to that rule chapter.
1	010.18	"Discharge" This definition may have problems given it only attaches to "pollutants" into "waters of the State." This definition, if discharge has no other definition (qualification) then its use in these rules has to be specifically defined in each circumstance or it will be defined by this Subsection;	No changes made	Defining disposal as recommended by commenter has alleviated this concern.
1	010.21	The phrase "for disposal" needs to be added at the end of the sentence after the word "facility"		Changed definition for effluent to include discharged or disposed water from a treatment facility.
1	010.31	Change "wastewater" to "effluent" because wastewater is not allowed to be applied to the ground without approval by the department per subsection 201.03b, or add "effluent," before the word "wastewater"		Added the term effluent to the definition while retaining the term wastewater as there are several avenues to dispose of wastewater through land application.
1	010.XX (New definition of Nuisance)	Not sure why this is added to the definitions as the legal term nuisance has specific meanings in the law. If the department wants to define Nuisance to be applied to the rules then this definition is too narrow...this would		The term is not added to the rule chapter. It existed in the previous rule set and is being renumbered because of rule edits.

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		include any single event that such as a neighbor who complains about the possibility of "bugs" in the air etc. ... seems extreme but the term "anything" and "injurious" leaves little wiggle room;		
1	010.59	Take out the word "municipal" if you take it out of the heading and be consistent throughout the rules	No changes made	Removal of 'Municipal' from the term was done to alleviate confusion between private and publicly owned facilities. However, privately owned facilities still treat municipal wastewater. In this case municipal doesn't refer to ownership but rather is equivalent to domestic sourced wastewater. The corresponding changes to convert municipal to domestic throughout the rule chapter was beyond the scope of this rulemaking.
1	010.68	<p>Insert the word "material" before "expansion ..." to be consistent with "material modification"</p> <p>a) Add "with proper grade to allow gravity flow of blackwater to the municipal wastewater collection system</p> <p>b) Insert before the ", and the owner" "so long as all of the property proposed in the new wastewater treatment plant can be served by the municipal</p>	No changes made	<p>Material modification has a specific definition in the rule; however, private wastewater treatment plants must evaluate whether they are reasonably accessible to a municipal collection system both when they propose a material modification or an expansion.</p> <p>Regarding a), the private wastewater treatment plant may need to add a pumping facility if they are reasonably accessible.</p> <p>Regarding b), see the response in a) above.</p> <p>Regarding c), site specific factors may include economics.</p>

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		<p>wastewater collection system through gravity flow</p> <p>c) This subsection is very subjective with no criteria or a way to balance the economics of a longer pipe cost than the 1,000 feet compared to private plant development costs. Also no exception is made for "will serve" letter</p>		
4	010.68	<p>The definition for "reasonably accessible" (010.68) as proposed in draft 2 is very specific to "private municipal wastewater treatment plants" as further discussed in Section 455. As the topic of "reasonable accessibility" is applicable to a variety of situations and rules, having a definition of "reasonable accessibility" can create confusion and difficulty when applied to the wrong situation. It is recommended that the definition 010.68 Reasonably Accessible be moved to 455.01.a.</p>	No changes made.	<p>Thank you for your suggestion. At this time, to avoid unforeseen consequences of removing the definition from Section 010, DEQ declines to make this change. One example of an unforeseen consequence is another rule chapter or guidance documents referring to this definition.</p>
1	010.XX (Addition of "Total	<p>Why is this new definition added? Why is it only with "no permitted discharge"? What about when a</p>	No changes made	<p>A Total Containment Lagoon has specific requirements within the rules. A lagoon that is used for both evaporation and disposal would be a</p>

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	<i>Containment Lagoon</i> )	lagoon is used for both evaporation and disposal by land application or recycle/reuse of the effluent which has a discharge? This seems to be an effort to class an impoundment with only effluent for disposal		storage lagoon and would not be defined as a Total Containment Lagoon. It is an effort to define a common method of disposal for wastewater effluent, evaporation, with no potential to further distribute the wastewater for discharge or beneficial reuse.
1	010.91	After the phrase “storing or treating wastewater” add “and storing for disposal of effluent.” This fits in with the definition of Total Containment Lagoon	Changes made	Attempted to address this comment by adding language to alleviate confusion.
3	203.01	<p>While we agree that the previous rules did require the designation of a substitute responsible charge operator, it also added that that requirement was only “at such times as the responsible charge operator is not available” (previously 203.03). This allowed some flexibility for systems as long as their responsible charge operator was available. Please include the previous language “at such times as the responsible charge operator is not available” to the updated rules.</p> <p>Requiring a system to designate a substitute responsible charge operator</p>	Changes made	<p>DEQ agrees with the comment, and added the following language to address the concern and be consistent with language in the Drinking Water Rules:</p> <p>“When the responsible charge operator is not available, the community wastewater system owner must designate a substitute responsible charge operator.”</p>

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		<p>“at all times” may be challenging for many systems in the state. Each system has the obligation to employ or retain one appropriately licensed operator to be designated as the facility’s Responsible Charge Operator. By re-writing the language as it is proposed, the Department is essentially requiring each facility to have two responsible charge operators “at all times”. This can be challenging financially for many systems who may not have budget for two positions. This can also be challenging when staff leave a facility. As the rules were previously written, if the backup responsible charge operator quits, the main responsible charge operator must be available at all times, but the facility doesn’t have to immediately designate another responsible charge operator. They have time to hire, train, and license a new operator to eventually fill the backup responsible charge operator. It will be challenging for many facilities to always meet this requirement as written.</p>		

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1	400.03a	<p>The 12 month construction times is not feasible in a significant number of projects. The requirement for resubmittal is onerous; once construction has started and contracts are let going back for complete reapproval for an extension at the discretion of the department puts significant economic uncertainty on the owner that is not in keeping with the Governor's Order. This section should allow the PER to set out a reasonable timeline for approval and that extensions would be granted upon Departments review of reasonably progress toward completion. For example: construction of a lagoon may not be able to be started until the ground is dry enough in the spring and then having a membrane installed in mid to late summer leaves no time to complete the requisite seepage test because of the need for evaporation before the 12 month time limit is up. Under this paragraph the Department could require a complete new application.</p>		See previous comment on this topic.

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		Delete the word "waive" and insert "make an exception to" and after the word "significant" add the word "additional";		
5	410.04.b.i	the term “model” implies a more sophisticated analysis than what may be necessary for some collection systems. A simple spreadsheet analysis or hand calculation analysis may be appropriate for some systems, could be calibrated or confirmed with existing flow data, and serve the public better at less cost than a commercial hydraulic model running on the latest SWMM engine. The city recommends using the word analysis instead of model.	Changes made.	It is our understanding hydraulic analysis is similar or equivalent to a hydraulic model, but the change was made to address the concern presented in the comment.
5	411.03.c.i.3.a and b	<i>Friction losses through force mains must be based on the Hazen and Williams formula or other acceptable methods. friction losses must be evaluated for different types and ages of pipe; and When initially installed, force mains will have a significantly higher “C” factor. The effect of the higher “C” factor must be considered in calculating maximum power</i>	No changes made	DEQ believes this language ensures consistency across projects, supports accurate pump and motor sizing, and aligns with industry standards for reliable system performance. The rule does not prescribe specific values but allows professional judgment in selecting appropriate C factors. Including this requirement in the PER section—rather than limiting it to force main standards—ensures it is addressed early in project planning.

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		<p><i>requirements and duty cycle time to prevent damage to the motor. The effects of higher discharge rates on selected pumps and downstream facilities must also be considered; and...</i></p> <p>Age related C factor changes should be considered in large pipe model networks but for treatment facility design it seem excessive to consider when pumping several hundred feet. The city recommends leaving the consideration and analysis it up to the QLPE, rather than making it required. Or put the C factor discussion just into the Force Main section (440.09.f).</p>		<p>This approach helps safeguard against premature equipment wear and supports cost-effective, long-term operation of critical infrastructure.</p>
5	411.03.c.iii.2 and 3	<p>The city recommends removing items 2 and 3 (operator interface and process and instrumentation diagrams, respectively) from the requirements for the PER as these are better addressed during the design phase.</p>	No changes made.	<p>DEQ considers the PER the design phase and the appropriate point to address these items.</p>
4	425.01	<p>In addition, operation of a wastewater system requires adapting to changing conditions and adapting to changes that are not considered material modifications. Operations and maintenance have a need for regulatory review and approval as well as a need for adaptability. It is</p>	No changes made	<p>Updates to an O&amp;M manual based on operational changes such as changes that are not material modifications or not made based on an upgrade to the facility do not need to be submitted under this rule. However, relevant permit conditions would remain in effect and should be followed; e.g., IPDES permit condition relating to the updates to an O&amp;M manual. This is an excellent topic for updated guidance documents.</p>

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		<p>recommended that O&amp;M manuals be recognized as living documents. Noting that material modifications include a reference to maintenance in an approved O&amp;M manual, proposed changes below are limited to operating instructions. However, operators should be afforded an opportunity to improve established maintenance activities without requiring DEQ review and approval.</p> <p>Recommended change to 425.01 – “...unit installed in system’s facilities components. Routine operating instructions should be revised and updated by the operators regularly to incorporate operational improvements and innovations.”</p>		
4	425.02	<p>Sections for both individual and main lift stations include references back to 425 with only minor detail. 425 includes a requirement for the submittal of the document to DEQ. 440.08 and 441.06 could be revised to remove redundant information and potential points of conflict in the</p>	Changes made.	

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		<p>future. Section 450.09 could also be revised with a minor edit to 425.</p> <p>Recommended changes:</p> <p>425.02 – “Final operation and maintenance manuals for construction or material modification of wastewater systems that include pumping stations or treatment facilities must be submitted to the Department for review and approval prior to start-up of the proposed system component unless the system components are already covered in an existing manual.”</p>		
4	425.03	<p>Recommended added section 425.03 – <b>“Operation and Maintenance.</b> The owner of a wastewater system is responsible for operating and maintaining the wastewater system in a manner that ensures its designed operation. Operational activities must be completed in accordance with the most up to date operation and maintenance manual. Maintenance activities must be completed in accordance with operation and</p>	No changes made	This is covered under Section 201.03 Operation

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		maintenance manuals approved by the Department		
5	430.01	The city recommends rejecting the proposed change from “ultimate tributary population” to “buildout flow”. The lift station should be designed for the flows expected during the life of the lift station. Buildout is a good long term planning tool, that could be used by the design engineer if they thought it was appropriate but shouldn’t be a requirement	No changes made.	<p>DEQ considers Buildout Flow a more concise term equivalent to Ultimate Tributary Population. DEQ also considers Buildout Flow a more standard industry term that is easier to understand.</p> <p>The section is for wastewater pipelines and not lift stations. Therefore, it is important that pipelines be designed and constructed for buildout flow except in parts of the systems that can be readily increased in capacity.</p>
4	430.02.n	<p>The phrasing for wastewater service lines a minimum of 25 feet from public water system wells appears to conflict with IDAPA 58.01.08.510.02 which requires any “potential source of contamination” to be a minimum of 50 feet from the wellhead.</p> <p>Recommended change to 430.02.n.iii – “Wastewater service lines will not be closer horizontally than twenty-five (25) feet. Wastewater service lines will not be closer horizontally than fifty</p>	Changes made.	Thank you for your comment and pointing out the inconsistency of the proposed rule.

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		(50) feet from public drinking water system wells.”		
3	430.02.o.iii	The requirement specifying that crossings must be perpendicular will impact development as it removes the flexibility to cross at slightly varying angles. Please consider rewording to allow some flexibility while maintaining the intent to cross at “generally perpendicular angles”.	No changes made.	DEQ reviewed the rule and believes the inclusion of, “...unless otherwise approved by the Department.” allows the widest range of flexibility to consider specific scenarios.
4	430.02.o	<p>The section of the rules referencing construction after April 15, 2007 is almost 20 years past and could be deleted.</p> <p>During rulemaking, there was discussion of what constitutes a crossing vs. parallel installation. The rule references “perpendicular” for crossings with the ability to propose alternative separation distances on a case-by-case basis with DEQ approval. Based on rulemaking discussion, additional flexibility within the rule itself would be beneficial. The following proposed rule provides</p>	Changes made.	<p>Thank you for the comment. DEQ deleted the sentence reference April 15, 2007.</p> <p>Regarding the language around crossings, DEQ reviewed the rule and believes the inclusion of, “...unless otherwise approved by the Department.” allows the widest range of flexibility to consider specific scenarios.</p> <p>In practice, this range is typically how DEQ views “...unless otherwise approved by the Department.</p>

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		<p>additional flexibility for defining a crossing.</p> <p>Recommended change to 430.02.o.iii – “Requirements for potable pipelines crossing non-potable pipelines. Crossings must be perpendicular, or at an angle of 45 to 90 degrees measured horizontally, unless otherwise approved by the Department...”</p>		
5	440.02.a	<p>The new text added in this section regarding construction materials used for pumping station structures appears to be common knowledge and standard practice. Unless DEQ feels there is a need to include it, the city recommends removing it as it does not fit the ZBR goals.</p>	Changes made.	<p>DEQ deleted the last sentence as it is not explicit rule language but more commentary. However, the language of this section existed in previous versions of the rule and was only moved as a part of rearranging this section.</p>
5	440.02.b.ii	<p>The city is unclear on the need for the new text in this section that requires pump suction and discharge openings to be at least 4 inches in diameter. The city recommends that the original text be retained, at least 3 inches. The concern is that by adding such specificity to the rules, it would limit</p>	No changes made.	<p>The additional language was added from the most recent version of the Recommended Standards for Wastewater Facilities (i.e., 10 States Standards). DEQ believes the inclusion of the case-by-case provision addresses the concerns presented in this comment.</p>

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		the ability to purchase the optimal equipment for the project.		
4	440.08	this section could be replaced with a reference to 425. 08.b could be replaced with a reference to 409.	No change made	Thank you for the suggestion. We are maintaining the current approach to ensure that O&M requirements are highlighted for specific elements of the rule.
4	441.06	this section could be revised to "An operation and maintenance manual must be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual is required. The owner of the individual service connection wastewater pumping station is responsible for maintaining the pumping station in a manner that assures its designed operation. The owner of the wastewater pumping station must be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools, and such spare parts as may be necessary."	Changes made.	Thank you for the comment to clarify ownership of the pumping station.
1	450.01.c	Add the word "used for treatment" after "lagoon". This will delineate lagoons used for storage, evaporation	Changes made.	The rule was edited to provide allowance for buffer distances less than 50 or 200 feet on a case by case basis based on property zoning, wastewater quality,

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		<p>or reuse of effluent such as the effluent quality of Class A and B defined in the Recuse provisions compared to lagoons used to treat wastewater. This needs to be changed so that we know what the use of the lagoon is as the determining factor as to whether 200 feet should be for treated water in the lagoon for disposal. There is currently a gap between the water that has been treated and tested at the end of treatment that becomes "effluent" for "disposal" at the physical point that is not considered in this definition of what has to have a 200 foot setback. From the physical point on it has to be either immediately disposed of by recharge, added to surface water or application by reuse; when reuse by land application or evaporation is approved as a disposal means during the winter months when land application is not allowed the treated water (effluent) has to be stored in some defined impound until land application is allowed again the next spring. The impound needed to store</p>		<p>and anticipated odors. This flexibility allows buffer distances to be set within the reuse permit.</p>

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		<p>the effluent seems to be the gap problem. We believe that the new Total Containment Lagoon with some modifications can suffice to describe this impound. As such it should not be required to meet the 200 foot setback as the land application rules which allow the effluent to be applied under certain circumstance up to the property line. Because of the changes in Section 493.01.b the lagoon that stored treated wastewater for disposal through evaporation did not have to meet the 200 foot requirement. Finally, At the end where the “public use” is included this prohibition seems to be in conflict because the Reuse rules allow Class A and B irrigation of public parks and common area where public use is allowed.</p>		
4	450.01.c	<p>There is precedent for treating Class A lagoons differently than other lagoons, as noted in 58.01.16.493.09.c.i and 58.01.17.605.03.b. The Recycled Water Rules allow for discharging Class A recycled water to a landscape impoundment that is unlined if</p>	Changes made.	<p>The rule was edited to provide allowance for buffer distances less than 50 or 200 feet on a case by case basis based on property zoning, wastewater quality, and anticipated odors. This flexibility allows buffer distances to be set within the reuse permit.</p>

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		<p>groundwater quality standards are met. It is worth noting that this language is for “reuse” and appears to be after the point of compliance and no longer considered wastewater; however, the quality of water being stored remains the same. As this is for “reuse” it would be after the point of compliance. However, many treated effluent storage lagoons are also located after the point of compliance. This can create ambiguity for what rules do and should apply for treated effluent storage.</p> <p>Recommended change to 450.01.c</p> <p>“Facilities open to the atmosphere such as lagoons, open clarifiers, open aeration basins, and other such facilities must be placed a minimum of two hundred (200) feet from residential property lines. If such open facilities are adjacent to property zoned as commercial or industrial, a lesser setback may be considered must be placed a minimum of two hundred (200) feet from property zoned as commercial or industrial unless a</p>		

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		<p>lesser distance is approved by the Department on a case by case basis. For totally enclosed facilities with noise and odor controls, the minimum setback must be fifty (50) feet. Neighboring property owners may grant long term easements or other types of legal documents tied to the land to allow for similar setbacks from future development or public use.”</p> <p>Recommended added section 450.01.c.i</p> <p>“Treated effluent storage lagoons for Class A and Class B recycled water must be placed a minimum of fifty (50) feet from residential property lines. Treated effluent storage lagoons for Class C recycled water that has been disinfected must be a minimum of one hundred (100) feet from residential property lines.”</p>		
4	450.09	this section could be replaced with a reference to 425	No changes made.	Thank you for your comment.
1	455.01b	The IC 39-116A seems not to require this agreement as a condition of	No changes made.	This language was present in the current rule and was rearranged for clarity.

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		approval. The term is for 5 years when the IC section allows for 10 years and 5 years is before most permits terms are granted for that need an extension;		
1	455.02a	This eliminates the Department from approving any new ideas of how to treat wastewater. Someone must be the first to use a new and innovative solution and with this requirement Idaho will never be the innovative solutions State	No changes made.	DEQ believes a private wastewater treatment plant, often transferred to the operation and ownership of a homeowner's association, is not the most appropriate venue for innovative solutions. Should a situation arise where an innovative solution is appropriate, DEQ can potentially waive this requirement of the rules.
1	455.03aii	Delete the newly added "wastewater" before the word "effluent"; Add "Or other acceptable means of disposal of effluent approved by the Department." Without this it requires an application for a reuse permit when it is not necessary considering an approval of a PER with a phased approach over time.	Changes made.	Clarification added to indicate a draft Recycled Water permit is required if that is the desired disposal method.
1	493.01.b	Add the following: "Lagoons used for storage for reuse and/or evaporation containing treated water to the quality of effluent as class A or B shall not be required to meet the new Subsection 450.01c minimum distance	No changes made.	This comment was addressed in the revision to section 450.01.c.

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		<p>requirement however, minimum distance will be approved as part of the PER to protect the environmental and public health.</p>		
4	493.01.b	<p>In general, clarity of applicability would be helpful. The topic is primarily related to setback distances for a treated effluent storage lagoon, but clarity on if or how “treated effluent storage lagoons” are regulated compared to “wastewater lagoons” would be beneficial for all parties. Two specific topics would benefit from explicit clarity: is treated effluent regulated as “wastewater” and is a “treated effluent storage lagoon” regulated as a “wastewater lagoon.”</p> <p>Recommended change to 493.01.b – “Lagoons utilized for equalization, wastewater storage, treated effluent storage, and sludge storage, do not...</p>	No changes made.	Using the general term storage allows the greatest flexibility, and the clarity for separation distances were addressed with the edits to section 450.01.
5	493.03.a	<p>The city recommends the following revision for this section. “Lagoons must be designed and sealed such that seepage loss through the seal is as low as possible.” Similar to other</p>	No changes made.	The language was taken from the Recommended Standards for Water Works, and the second sentence of this section is important to ensure an appropriate liner is selected for the application.

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		<p>comments above, the rule appears to add specificity where it is not necessary.</p>		
4	493.09.a.iii	<p>Lagoons take significant land area and sidewalls can use a significant amount of land area, especially when contributing to setback requirements. The rules require a maximum 3:1 slope for interior and exterior dykes. With proper engineering, steeper slopes can be used for construction. There may be safety concerns with getting out of a lagoon that justify a 3:1 slope, but that should not apply to exterior slopes. It may be possible to account for safety by utilizing alternate access methods, such as ladders, when using steep interior side slopes.</p> <p>Recommended change to 493.09.a.iii – “...horizontal (1:3) unless otherwise approved by the Department.”</p>	No changes made.	The Department will consider steeper slopes via the waiver process.
1	493.09.c.i	Class B should be added to this Subsection		DEQ requests further clarification from the commenter on this.
5	500.05.b	The city recommends that the “one year’s worth of UV transmittance data	No changes made.	The entirety of the rule allows for this requirement to be reduced or eliminated as approved by the Department.

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		(4x/day) prior to the PER is required" ....be changed back to "encouraged". The new requirement will increase the time to design and delay projects.		
1	600.04	This Subsection should be consistent with Subsection 493.09v	No changes made.	Subsection 493.09.v appears to refer to lagoon freeboard and is not related to section 600.04.
2	650	The City requests removal of the requirement to identify proposed haul routes for sludge transportation and disposal. Eliminating this unnecessary provision aligns with the objectives of the Zero-Based Negotiated Rulemaking process.	Changes made.	The requirement to identify a haul route was removed.
1	660	After the word "Director" add "or designee"; delete the word "full" as it is a modifier that is extraneous to the word "demonstration"; delete "are not necessary for the protection of" and insert "will adequately protect the" which changes the necessary which is an absolute to adequately which is a measure of quality that is in keeping with a proposal to modify the rules.	Changes made	As part of the Director's statutory authority, Idaho Code allows the Director to designate appropriate representatives. Adding 'or designee' is redundant. DEQ chose not to make the other change recommended as it changes the tone of the rule. May discuss further.

## Response to Comments:

### 58-0116-2501 Negotiated Rulemaking Meeting #1

Commenter #	Commenter
1	J Coleman
2	Post Falls
3	Meridian
4	WelchCome
5	Boise

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3	58.01.16.008	Is there a reason these three guidance documents are being removed?	No change made.	DEQ's rationale is that our rules should not be referencing our own guidance documents to avoid treating guidance documents as rule. In addition, some of these references were not used in this rule set.
3	58.01.16.010	010.02. Response Time Please explain the reasoning behind setting a minimum response time at 30 minutes.	No change made.	DEQ's opinion was the rule should establish a consistent emergency response time for all systems. Based on DEQ's experience with systems statewide, 30 minutes appeared to be a reasonable minimum response time in the context of establishing what emergency storage capacity in the design. Response times less than 30 minutes may be possible under special circumstances and would be allowable with adequate documentation.

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3	58.01.16.010	010.03, 010.15, 010.38. Removal of flow definitions Is there a reason that the Average Daily Flow, Design Flow, and Mixing Zone definitions were removed? They are used in other areas of the rules. These seem like important parameters to define to help ensure uniform application and understanding.	No change made.	The definitions appeared in two locations; the definitions were consolidated to reside under the definition of Wastewater Flows. In addition, Mixing Zone is not used in these rules and is used in the IPDES rules.
5	58.01.16.010	04. Beneficial Use Not consistent with Recycled Water Rules	No change made.	Definition is not the same, but equivalent. Pointing to the water quality standards definition here is the most appropriate approach.
5	58.01.16.010	05. Biochemical Oxygen Demand (BOD) Not consistent with Recycled Water Rules	No change made.	Definition is equivalent but does include the 20degree incubation that is standard for this type of test.
3	58.01.16.010	18. Removing waters of the state Please explain the reasoning behind removing waters of the state from the definition of discharge. This seems like an important distinction.	No change made.	Definition occurs in statute.
5	58.01.16.010	21. Effluent Not consistent with IPDES Rules	No change made.	True, but for the purposes of wastewater engineering and design, this definition is most appropriate.
5	58.01.16.010	24. Equivalent Dwelling Unit (EDU) Not consistent with IPDES Rules	No change made.	Not intended to be the same. EDU in the IPDES rules is defined solely for the purpose of calculating fees. Here it is defined to assist in engineering design.
5	58.01.16.010	25. Facility Plan A Facility Plan may be referred to as a master plan or facilities planning study and is updated on a regular basis to account for growth patterns, regulatory requirement or other needs. The city recommends that "regular basis" is too	No change made.	Due to system complexity, specifying a specific timeframe that applies to all systems across the board isn't practical. Consideration of a 5 year timeframe has been made, but that may not be appropriate depending on system size, complexity, and growth.

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		subjective and could be applied inconsistently. The city recommends that additional language be included in Section 410.		
5	58.01.16.010	30. Industrial Wastewater Not consistent with Recycled Water Rules	No change made.	Definition is similar but not exact.
5	58.01.16.010	31. Land Application Not consistent with Recycled Water Rules	No change made.	True, but for the purposes of wastewater engineering and design, this definition is most appropriate.
4	58.01.16.010	35. Material Modification Definition 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	No change made.	This definition was changed to match the definition within the drinking water rules. It is important for consistency amongst these projects to have the definitions match. DEQ does not interpret this rule that a system must have an approved O&M Manual to make repairs; the sentence is used to provide an example of what types of repairs are not considered a material modification. DEQ expectation for systems that do not have an approved O&M manual is for the system to discuss planned maintenance and repair projects with the regional office to determine if the project is defined as a material modification.

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		original language and adding “or as outlined by the system’s approved O&M”.		
5	58.01.16.010	39. Municipal Wastewater Not consistent with Recycled Water Rules	No change made.	Definition is similar and equivalent in meaning but not exactly the same.
1	58.01.16.010	39. Municipal Wastewater. “treated or untreated” – Most surrounding states consider ‘treated’ wastewater a resource. Idaho appears to consider wastewater as always wastewater. All municipal wastewater is not always just sewage. Sewage definition and wastewater should be combined into one definition.	Wastewater is a broad definition of all types of wastewater. Sewage is human and animal generated waste and feces. And Municipal Wastewater is human-only generated feces.	Our Recycled Water permitting program allows treated wastewater to be used as a resource (58.01.17). It is not within the scope of this set of rules.
5	58.01.16.010	54. Potable Water Not consistent with the detailed RW Rules definition but similar to DW Rules.	No change made.	Intended to be similar to the DW rules. Will consider updates to reuse rules at later date.
4	58.01.16.010	57. Preliminary Engineering Report Definition 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	No change made.	PERs have always been required for projects which require plan and specification review including material modifications with the exception of simple main extensions as described in section 411. This definition revision clarifies those requirements.

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		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).		
1	58.01.16.010	59. Private Wastewater System. Definition is any system over 2,500 gallons per day. Section 455 does not allow any system under 25,000 gallons per day. These two Rules are in direct conflict.	No change made.	This comment appears to confuse certain definitions pertaining to wastewater systems. The proposed rule is meant to address some of this confusion. Generally, a Private Wastewater System has never been defined as 2,500 gallons per day. The previously rule defined a Public Wastewater System as 2,500 gallons per day simply as the minimum threshold that any wastewater system required a licensed operator. The current rule proposal renames this type of system to a Community Water System. A Private Wastewater Treatment Plant has its' own definition and is regulated separately from a Community Water System.
5	58.01.16.010	63. Receiving Waters Not consistent with IPDES Rules	No change made.	Not intended to be. IPDES is strictly limited to discharges to Waters of the U.S. Engineering facility design includes design for other types of discharge and disposal.
5	58.01.16.010	65. Recharge Water This definition is out of place in these rules. Recommend moving to GWQR as it's not wastewater.	No change made.	DEQ is declining to move 58.01.16.600 to the Groundwater Quality Rule at this time. There are instances where this has provided flexibility to the regulated community in not needing a reuse permit for a de minimum discharge but needing approval from the agency to ensure that environmental and public health is protected. E.g., a drinking water facility periodically needing to discharge of storage backwash water to a swale or ditch.

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1	58.01.16.010	72. Reviewing Authority. The Rule seems to limit the review to Department only (except minor QLPE reviews). Would recommend adding 'or designee' which would allow for outside contracted review. Outside reviewers should be designated to reduce work load, reduce time or review projects or systems outside of the Department's experience or qualifications.	No change made.	Our rules do not preclude DEQ from contracting plan and specification review to an outside entity. At this point in time, DEQ has not executed a contract for this review.
5	58.01.16.010	74. Secondary Treatment Not consistent with IPDES Rules	Change made	Definition has been modified to reflect Metcalf and Eddy. Secondary treatment as defined in the IPDES rules is specific for the technology based effluent limits and may not reflect the entire universe of secondary treatment processes and purposes, e.g., disinfection.
1	58.01.16.010	74. Secondary Treatment. A better definition is necessary. Secondary treatment of wastewater is a biological process aimed at removing dissolved organic matter that remains after primary treatment. This stage primarily utilizes microorganisms to break down organic pollutants, resulting in treated effluent suitable for discharge or further processing.	Change made	Definition updated based on Metcalf and Eddy.
5	58.01.16.010	75. Septage Not consistent with IPDES Rules	No change made.	WW definition is more encompassing and is referenced in IDAPA 58.01.03 Individual/Subsurface Seage Disposal Rules and Rules for Cleaning of Septic Tanks.

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5	58.01.16.010	77. Sewage IPDES references WW Rules, Recycled Water Rules has most updated definition.	No change made.	Definition is identical to Recycled Water Rules with the proposed modifications
1	58.01.16.010	78. Simple Wastewater Main Extension. This should be extended to simple pressure sewers instead of limiting it only to gravity. A direct replacement or like-kind replacement of pressure sewer should be considered simple also.	No change made.	Like-kind replacement is not subject to plan and specification review. DEQ does not view extensions of pressure sewer mains as simple extensions of wastewater infrastructure. Additional components such as pumps or a lift station are typically required to extend pressure sewer mains.
5	58.01.16.010	86. Treatment Facility. For the purpose of these rules, a treatment facility may also be known as a treatment system, a wastewater system, wastewater treatment system, wastewater treatment facility, or wastewater treatment plant. Recommend the addition of the term "wastewater system" to the definition.	No change made.	The was a specific change to the definition of wastewater system based on the clarity added to wastewater system definition which includes both a collection system and treatment system.
5	58.01.16.010	96. Water Pollution Not consistent with IPDES Rules	Changed reference from water quality standards definition to IPDES rules	
2	58.01.16.010	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	No change made.	The definition is synchronized with the definition within the Idaho Public Rules for Drinking Water Systems. Although the language seems ambiguous, the intent of the wording is to provide DEQ, in conjunction with the system, the ability to evaluate proposed system changes and determine if plans and specs are required to provide additional flexibility when plans and specifications are not needed.

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		<p>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.</p>		
2	58.01.16.010	<p>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 City requests the addition of a definition for "sanitary sewer overflow" within IDAP A 5 8. 01.16, "Wastewater Rules." Furthermore, defining a de minimis category of sanitary sewer overflow that does not requiring reporting would ensure only those</p>	No change made.	The requested change is outside the scope of the Wastewater Rules.

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		<p>events which pose a risk to public health and the environment are repaired. 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.</p>		
1	58.01.16.010	<p>XX. Like-Kind Replacement – I could not find this definition in 58-01-08 “Idaho Rules for Public Drinking Water Systems” Would like to see a definition that includes a definition specific to wastewater collection and treatment systems. Like-Kind replacements should be exempt from DEQ review and approval process. For example, during a maintenance operation if a repair is extended to a replacement it should not be subject to DEQ review and approval.</p>	No change made.	<p>Definition of like kind replacement is defined in IDAPA 58.01.08.003.27. Like kind replacements are exempt from DEQ review and approval via the definitions of like kind replacement and material modification.</p>
5	58.01.16.201	<p>201.03.b Wastewater System Requirements New text in this section is redundant with other sections, please see City of Boise comment #1: b. Ensure that untreated or partially treated wastewater is not disposed of to the ground surface unless otherwise</p>	No change made.	<p>Previously, the Wastewater Rules did not prohibit unauthorized disposal of untreated or partially treated wastewater to the ground surface. This language is not only intended to address SSOs; it is meant to address any intended or unintended disposal of untreated or partially treated wastewater.</p>

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		permitted or approved by the Department; and		
3	58.01.16.201	201.03.b. Wastewater System Requirements Is this addition intended to address SSO's? If so, it should clarify that it discharges prior to the treatment plant, under the control of the system.	No change made.	Previously, the Wastewater Rules did not prohibit unauthorized disposal of untreated or partially treated wastewater to the ground surface. This language is not only intended to address SSOs; it is meant to address any intended or unintended disposal of untreated or partially treated wastewater.
3	58.01.16.203	203.01 and 409.03.c. Substitute Responsible Charge Operator Requiring a system to designate a substitute responsible charge operator at all times may be challenging for many systems in the state. Each system has the obligation to employ or retain one appropriately licensed operator to be designated as the facility's Responsible Charge Operator. By re-writing the language as it is proposed, the Department is essentially requiring each facility to have two responsible charge operators at all times. This can be challenging financially for many systems who may not have budget for two positions. This can also be challenging when staff leave a facility. Today, if the backup responsible charge operator quits, the main responsible charge operator must be available at all times, but the facility doesn't have to immediately designate	No change made.	The previous rules have always required each system have a substitute responsible charge operator. The rule does not change the requirement that every system is required to designate a substitute responsible charge operator. The language has been condensed into one paragraph.

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		<p>another responsible charge operator. They have time to hire, train, and license a new operator to eventually fill the backup responsible charge operator. It will be challenging for many facilities to always meet this requirement as written.</p>		
5	58.01.16.400	<p>400 Review of Plans for Municipal Wastewater Systems Clarity needed. Recommend inserting "material modifications to" before municipal ww systems. Also recommend deleting new addition of "the plans and specifications must contain sufficient detail to allow for the contracting and construction of ww systems" as this text is subjective and may lead to confusion.</p>	No change made.	<p>Section 400 applies to more than just upgrades or modifications to a facility. New facilities have to have plans and specification that comply with section 410 through 599 as applicable.</p>

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3	58.01.16.400	<p>400.03.a. Plan and Specification Review Many projects are not constructed within one year (12 months). Previously this section was intended to ensure projects began construction within one year of plan review/approval by the Department. It now reads that projects must also have construction completed within one year after approval of the Department or the facility must seek a new approval or reapproval of the plans. Is there a reason for this change? It does say additional documentation can be provided if a project will take more than 12 months to construct, but this seems like additional work and requirements that do not serve a purpose.</p>	No change made.	<p>The rule is synchronized to match verbiage from the drinking water rules. Changes were made to provide flexibility for a longer approval time in cases where a large project is expected to take longer than 12 months. Typically, DEQ does not require resubmittal of plans and specifications to approve a construction extension if no changes to the design have been made. While the point is valid that many wastewater treatment plant projects may take longer than 12 months, many projects are not like that, e.g., pumping station and force main addition. DEQ feels synching with the Drinking Water Rules with the inclusion of: "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." Striking a balance with keeping the timeframe reasonable for many projects but gives the flexibility to extend it at the onset of the project or through re-approval. As stated, DEQ typically does not require resubmittal and approval prior to granting a construction inspection.</p>
5	58.01.16.400	<p>400.03.a Plan and Specification Review The proposed rule changed from construction completed within 12 months to construction commenced. Recommend changing back to commenced. Could cause unnecessary changes to projects already under construction due to re-review.</p>	No change made.	See previous response to comment.

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3	58.01.16.400	<p>400.03.c.iii - d.iii. QLPE requirements This section states that a QLPE cannot approve plans for wastewater pump stations, force mains, or treatment facilities? If not a QLPE, then who can approve these? What is the intent of taking away the ability for staff who work at the same municipality from performing the QLPE review on another staff's work for minor projects? This eliminates the ability for a city's staff to do QLPE review for other staff members projects. This could add cost and time to cities.</p>	No change made.	QLPEs have never been allowed to review mechanical systems such as pumping stations. The rules were condensed for better reading.
3	58.01.16.400	<p>400.04. Plan and Specification Review The rewrite as proposed would make it a requirement that a licensed professional engineer stamp all plans from a facility. The previous way it was written clarified that this requirement meant plans for construction. Facilities must develop many "plans" for DEQ such as Mercury Minimization Plans, Operation and Maintenance Plans, and Emergency Response Plans just to name a few. Those plans should not be required to be created and stamped by a professional engineer. This will add time and cost to all systems across the state. I don't think this is the intent of</p>	Change made.	Addressed comment to address what projects require engineer's seal.

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		the re-write, but it could be interpreted in this way.		
5	58.01.16.400	400.05.a Record Plan and Specification Plan and Specification DEQ added words "by the design engineer" Recommend deleting as it could conflict with IDAPA 39-118(3)	Deleted	
5	58.01.16.400	400.06 Compliance with Applicable Standards Exception to P&S Review Recommend inserting "or for wastewater system projects not explicitly covered by Section 430 through 650 of these Rules"		Comment needs clarification please. Is the intent to provide coverage for other projects and hold them to the equivalent design standards?
3	58.01.16.400	400.09. Construction Inspection The rewrite now requires that a professional engineer (PE) inspect all construction elements of a project. Previously it allowed other qualified personnel to perform inspections. Many facilities employ their own Public Works Inspectors, who are not PEs to inspect projects. This change would create a significant cost and burden to facilities.	Change made.	Addressed the comment during the negotiating session.

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1	58.01.16.400	400. Review of Plans for Municipal Wastewater Systems. This section will not allow for the design/build process which will in many cases be beneficial to the outcome. There have been some design/build projects completed in Idaho which would not be allowed by this Rule. See comments above that would allow for designated reviews.	No change made.	Design build is not precluded by our rules. Our rules do not speak to contracting method. Both traditional and design/build are supported by our rules, and design/build projects have been reviewed and approved by DEQ through our current rule set.
5	58.01.16.401	401.01 Review of Plans for Nonmunicipal Wastewater Treatment or Disposal Facilities. The Department does not require review of industrial in-plant processes. For some industries it can get complicated determining what is considered an industrial in-plant process and what requires a permit. Some industries may request voluntary permits either way.	No change made.	Thank you for your comment
5	58.01.16.401	401.04.a Recommend inserting “or for wastewater system projects not specifically covered by the Rules.” for consistency.		Comment needs clarification please.
1	58.01.16.401	401.05 Waiver- Not sure this has ever happened in Idaho. What is the process.	No change made.	The decision to waive plan and specification review and approval for nonmunicipal wastewater systems lies with the Director of DEQ. A query would be made to the regional office justifying the project will have no significant impact on the environment or on public health, and the region will forward the request to the Director.

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4	58.01.16.410	<p>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).</p>	No change made.	<p>DEQ internal goal is to complete Facility Plan and PER reviews within 42-days. However, in accordance with Idaho Statute, we have to prioritize plan and specification review in accordance with the 42-day timeline. DEQ will consider review fees in the future if approved by the Idaho State Legislature.</p>
3	58.01.16.410	<p>410.04.b.i. Facility Plans - Hydraulic Model The rewrite requires the submission of the computerized hydraulic model not just the analysis or output of the hydraulic model. If this is truly the intent, does DEQ plan to utilize or run all of the system's hydraulic models? Many of these</p>	Change made.	<p>Computerized term is removed and replaced with system-wide to emphasize the entire system must be analyzed.</p>

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		models require specialized software and technical ability to run the models correctly. What is the purpose and intent of this change?		
3	58.01.16.410	410.04.d. Facility Plan Guidance It appears that this rewrite is removing the facility plan guidance document. Is DEQ not intending to keep this document? If not, where should facilities go for guidance on the creation of facility plans?	Change made.	Section was incorrectly deleted.
4	58.01.16.411	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	No change made.	The term "major" was removed as it was not defined and caused ambiguity in the rule. Simple main wastewater extension projects do not require a PER. PERs are required for projects which require plan and specification; this precludes projects that are like-kind replacements but includes projects that are material modifications. In these cases, it is recommended to work with your local regional office.

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3	58.01.16.411	411.01. Preliminary Engineering Reports The rewrite states that a PER must be completed for any project and removes the word "major". This change could add significant additional workload for facilities and DEQ. Please clarify what the intent of this change is. The way this is written, for example, could imply that if a system wants to change out the type of weir washer it is using and put in a new type it could require a PER.	No change made.	The term "major" was removed as it was not defined and caused ambiguity in the rule. Simple main wastewater extension projects do not require a PER. PERs are required for projects which require plan and specification; this precludes projects that are like-kind replacements but includes projects that are material modifications. In these cases, it is recommended to work with your local regional office.