

**TO:** Mary Anne Nelson  
Department of Environmental Quality  
1410 N. Hilton, Boise, ID 83706  
[mary.anne.nelson@deq.idaho.gov](mailto:mary.anne.nelson@deq.idaho.gov)

**FROM:** Gary Fornshell, Aquaculture Results LLC

**RE:** Comments regarding: 58.01.16 - WASTEWATER RULES, DOCKET NO. 58-0116-2501 (ZBR CHAPTER REWRITE), NOTICE OF RULEMAKING – PROPOSED RULE

**Date:** October 1, 2025

Dear Dr. Nelson,

I appreciate the opportunity to comment on the proposed revisions to the Wastewater Rules and DEQ's response to my previous questions. I currently own and operate Aquaculture Results LLC, an aquaculture consulting company.

DEQ's effort, per Executive Order No. 2020-01, Zero-Based Regulation, to reduce the overall regulatory burden, streamline various provisions, and increase clarity and ease of use of the Wastewater Rules is commendable. However, specific revisions of the Wastewater Rules (IDAPA 58.01.16) have unintended consequences that I believe are not DEQ's intent under the proposed rule.

**1. Pollutant Definition Eliminating Aquaculture Exemption  
(IDAPA 58.01.16, Section 010.53)**

Of concern is the proposed deletion of the definition of "Pollutant" in Section 010.53 and the subsequent application of the pollutant definition as provided in the Idaho Pollutant Discharge Elimination System (IPDES) Rules (IDAPA 58.01.25).

The current definition of Pollutant in IDAPA 58.01.16 includes an essential, specific exemption for aquaculture facilities that is not present in the IPDES Rules definition:

"Provided however, **biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities.**" (IDAPA 58.01.16, Section 010.53, *emphasis added*).

The deletion of this specific language, while intended to streamline IDAPA 58.01.16, has the unintended consequence of removing a fundamental legal protection for aquaculture facilities that has been a part of the regulations since at least 1997. Without this explicit exemption, the accidental or occasional release of live or dead fish could be classified as a pollutant.

The proposed rule strikes a substantive provision that is critical to aquaculture operations. I request that the language not be stricken from the Wastewater Rules until such time that it can be added to the definition of pollutant in the IPDES Rules.

## 2. Redundancy with Existing State Regulation

The Idaho State Department of Agriculture regulates commercial fish farms ([Title 22, Chapter 46](#) “Fish Farms”). All commercial fish farms require a \$25.00 license through ISDA, which renews on even-numbered years. These licenses require routine, documented inspections of all fish exclusion and containment devices at both the intake and outlet of every commercial aquaculture facility to prevent escapement.

DEQ regulating the accidental release of fish would result in redundant regulatory oversight, contradicting the ZBR goal of reducing overall regulatory burden and streamlining provisions.

## 3. Clarification on "Wastewater" and "Wastewater System" in relation to Aquaculture Facilities

I appreciate that DEQ is not changing the scope of applicability of this rule set. Nonetheless, the combination of a broad definition of “Wastewater” and the very broad, new proposed term “Wastewater System” creates ambiguity as to the applicable scope of the regulations.

**“Wastewater.** Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water, and storm water that may be present...” (IDAPA 58.01.16, Section 010.64).

**“Wastewater System.** A collection system or treatment facility, or a combination of collection system and treatment facility. This includes all structures, equipment, or processes required to collect, convey, treat, store, and dispose of wastewater.” (IDAPA 58.01.16, Section 010.68).

The concern with these broad definitions is that “Wastewater” and “Wastewater System” could be inappropriately interpreted to include water being beneficially utilized within an aquaculture facility and all of the components of an aquaculture facility, rather than only the components used solely for waste treatment purposes, respectively.

DEQ is urged to eliminate the ambiguity of the terms “Wastewater” and “Wastewater System” by revising the rules and/or issuing a clear assurance that water within an aquaculture facility is not considered "Wastewater" for regulatory purposes until its **beneficial use** has concluded, nor is the entirety of an aquaculture facility to be considered a “Wastewater System”.

- As aquaculture water passes through a facility, it is continually used to culture fish or is transferred within the facility to additional fish rearing units (e.g., from head tanks to proceeding serial reuse raceways).

- Water in an aquaculture facility should only be considered “wastewater” after all beneficial uses within the aquaculture facility have concluded.

Clarity on this point is essential to ensure that the continued use and movement of water within a fish-rearing system is not classified or regulated as "Wastewater" and that all or most of an aquaculture facility, within which the collection and conveyance of water that contains fish waste occurs, is not classified as a “Wastewater System.”

This clarity is vital to prevent unintended violations of rules like Section 201.03.b. (prohibiting unauthorized disposal of wastewater to the ground surface) from simple occurrences like water splashing from a raceway to the ground.

Thank you for your consideration of these comments addressing this most important matter.

Sincerely,



Gary Fornshell  
Aquaculture Results LLC  
Twin Falls, ID 83301  
208-404-3665  
[fornshell2021@outlook.com](mailto:fornshell2021@outlook.com)

**From:** [Gary Fornshell](#)  
**To:** [Mary Anne Nelson](#)  
**Cc:** [Gary Fornshell](#)  
**Subject:** Re: Docket 58-0116-2501 Response to Comments  
**Date:** Tuesday, October 28, 2025 4:45:04 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

---

**CAUTION: This email originated outside the State of Idaho network. Verify links and attachments BEFORE you click or open, even if you recognize and/or trust the sender. Contact your agency service desk with any concerns.**

---

Dear Dr. Nelson,

Thank you for providing the response-to-comments documents. Greatly appreciate your effort, consideration of the comments and addressing the concerns expressed by aquaculture. I agree having more eyes looking at the proposed rule makes it a better and more usable rule. Appreciate the opportunity to provide feedback.

Regarding the response to Section 401 (review of plans for nonmunicipal wastewater systems), I suggest adding the following to further clarify and better address aquaculture's concerns.

"... Aquaculture facilities must submit plans and specifications for construction, modification, or expansion of waste treatment or disposal facilities for review and approval consistent with Idaho Code § 39-118(5). Infrastructure for water conveyance **or aquatic organism husbandry** within an aquaculture facility, prior to its discharge or diversion to waste treatment or disposal facility, does not require engineering design submittal under these rules."

Thank you for your consideration of this request.

Best regards,  
Gary Fornshell  
Aquaculture Results LLC