

**FORMAL PUBLIC COMMENT ON PROPOSED RULEMAKING IDAPA 58.01.16 –  
WASTEWATER RULES (Docket No. 58-0116-2501)**

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

**FROM:** Leo Ray

**DATE:** October 1, 2025

**SUBJECT:** Formal Comments on Proposed Revisions to the Wastewater Rules

Dear Dr. Nelson and DEQ Rulemaking Team,

I am writing as an individual fish producer in Idaho to submit a formal comment regarding the proposed rewrite of the Wastewater Rules (IDAPA 58.01.16). My businesses, Fish Breeders of Idaho Inc and Big Bend Trout Inc, are directly affected by these changes.

1. Conditional Deletion of the Pollutant Exemption

The proposed deletion of the definition of "Pollutant" (Section 010.53) strikes a substantive provision in place since at least 1997: "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.**"

Deleting this language creates ambiguity in how these regulations are applied to aquaculture facilities in the future.

2. Ambiguity of "Wastewater" and "Wastewater System"

The combination of the broad definition of "Wastewater" and the new proposed term "Wastewater System" creates significant ambiguity. We urge the Department to revise the rules and/or issue a clear assurance that:

- Water in an aquaculture facility is only considered "wastewater" after all beneficial uses within the aquaculture operation (e.g., culturing fish or serial reuse) have concluded.
- The entirety of an aquaculture facility is not to be considered 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 alongside a raceway.

3. Redundancy with Existing State Regulation

Implementing new IPDES regulation for fish escapement is redundant regulatory oversight. Fish containment is already regulated by the Idaho State Department of Agriculture (ISDA) under Title 22, Chapter 46 "Fish Farms." This includes mandatory annual permits (\$25.00 license, renewed on even-numbered years) and routine inspections of all fish exclusion devices.

**Formal Recommendation:**

I formally request that DEQ adopt a procedural safeguard and a clear policy to eliminate this ambiguity:

- The aquaculture exemption language in the Wastewater Rules (IDAPA 58.01.16, Section 010.53) must NOT be stricken until such time that the language is formally incorporated into the definition of Pollutant within the IPDES Rules (IDAPA 58.01.25).
- Additionally, we request that DEQ provide clarity on this point to ensure that the continued use and movement of water within a fish-rearing system is not prematurely classified or regulated as "Wastewater" or that all or a majority of an aquaculture facility be deemed a "Wastewater System." Eliminating this ambiguity is critical to our industry, as we do not believe that is the intent of the rules.

Thank you for your consideration of this matter.

Sincerely,

Leo Ray

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