

Idaho Aquaculture Association Inc.

PO Box 767, Hagerman, ID 83332, email: iaa@idahoaquaculture.org

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

FROM: The Idaho Aquaculture Association (IAA)

DATE: September 30, 2025

SUBJECT: Formal Comments on Proposed Revisions to the Wastewater Rules

Dear Dr. Nelson,

On behalf of the Idaho Aquaculture Association (IAA) and its stakeholders, we appreciate the Department of Environmental Quality's (DEQ) review of the Wastewater Rules (IDAPA 58.01.16) under the Zero-Based Regulation (ZBR) initiative. We recognize the effort to clarify provisions and streamline regulatory language, but are concerned about striking a substantive provision that has been part of the rules since at least 1997 and other unintended consequences of certain proposed revisions.

1. Concern Regarding the Aquaculture Pollutant Exemption

Our primary comment relates specifically to the proposed deletion of the definition of "Pollutant" in Section 010.53 and the subsequent reliance on the definition 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 our industry 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.

We acknowledge that DEQ is trying to streamline its regulations, but as part of this it is proposing to strike a substantive provision that is critical to aquaculture operations. Therefore, we 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

Furthermore, the regulation of fish escapement is already thoroughly addressed by another state agency, the Idaho State Department of Agriculture. All commercial fish farms require a \$25.00 license through ISDA, which renews on even-numbered years ([Title 22, Chapter 46](#) "Fish Farms"). These licenses require routine, documented inspections of all fish exclusion and containment devices, including screens and nets, at both the intake and outlet of every fish production facility to prevent escapement.

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Implementing new IPDES regulation to govern the accidental release of fish would therefore 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

We acknowledge the internal clarification provided by DEQ that the scope of applicability of the Wastewater Rules to aquaculture is not intended to change. However, the combination of a broad definition of "wastewater" (*i.e. any combination of water and pollutants from activities and processes ...*) and the very broad, new proposed term "Wastewater System" (*i.e. a collection system or treatment facility, or a combination of a collection system and treatment facility. This includes all structures, equipment, or processes required to collect, convey, treat, store, and dispose of wastewater*) creates ambiguity as to the applicable scope of the regulations. We are concerned that these broad definitions could be inappropriately interpreted to include water being beneficially utilized within an aquaculture facility and all of the components of an entire aquaculture facility, rather than only the components used solely for waste treatment purposes.

To eliminate this ambiguity, we urge the Department to revise the rules and/or issue 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 operation have concluded.

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, which involves the collection and conveyance of water that contains fish waste in it be deemed a "Wastewater System." Eliminating this ambiguity is critical to our industry nor do we believe that is the intent of the rules. For example, if a fish splashes water onto the ground surface alongside a raceway that shouldn't be deemed a violation of the new requirement set forth in Section 201.03.b.

Thank you for your consideration of this critical matter. We are available to discuss this issue further at your convenience.

Sincerely,

Mark E. Daily,
IAA President

