



# HAWKINS

Mary Anne Nelson  
Idaho Department of Environmental Quality  
Transmitted via Email

August 30, 2025

Re: Comments to Draft 4 Rule Making Docket #58-0116-2501

Mary Anne,

Thank you for allowing me to comment on Draft 4 of the proposed new Wastewater Rules. As an owner of a Municipal Wastewater Treatment Plant with plans for another plant for a 160 unit residential subdivision I appreciate IDEQ's efforts to follow the Governor's executive order to help streamline and make it a smoother process for approval. After reviewing all the previous drafts, I still have the following concerns with the latest Draft 4 with suggested changes:

1. Section 493: The current language in Subsection .01b clearly exempts "evaporation" ponds from having to meet the 200 foot setback requirement required in Subsection 493.05. With the new proposed language, it shifts the Location requirement to Subsection 450.01c, which sets forth the "Plant" location in Subsection 450.01.c to require that same "evaporation" pond to now meet a 200 foot setback requirement when it did not have to meet in the current Section 493.01b. By lumping the new "Total Containment" and "Recycled Water Storage" ponds in the current Draft 4 with the current treatment lagoons listed in Section 450.01c it takes currently exempt evaporation ponds to a stricter rule.

The current Section 450.01c deals with "lagoons," which currently has no clear definition as the current rules define only "Wastewater Lagoon(s)" (current Subsection 91 with proposed at Subsection 66) with no definition of "lagoon" alone, but for the purpose of "storing or treating wastewater" and the defined term "Wastewater" is water that is "rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants, and; sewage" or commonly understood as untreated water or sewage and not the "Wastewater" cleaned by treatment with the resultant water becoming "effluent" quality defined by different levels of treatment, not contained in the wastewater rule, but instead are in the recycled water rules of IDAPA 58.01.17. After "lagoon" the Subsection also adds to the list "open clarifiers ... aeration basins and *other such facilities*." Because clarifiers are commonly used for settling solids and aeration basin for air to promote consumption of organic matter they are considered treatment. In-other-words, treatment of sewage generally and not the finally treated water for discharge (proposed as "Disposal") to a disposal system that would be found in the proposed Total Containment or Recycled Water ponds. In addition, the existing Recycled Water Rules Section 609.1, specifically addresses the fact that a recycled water lagoon, which always has a component of an evaporation and storage lagoon status, should comply with Section 493 which allows for an evaporation lagoon that is used for effluent evaporation purposes to NOT have to meet the setback requirement in Section 493.05.

The purpose of these comments is to be consistent with the Governor's Executive Order which requires the rules to "*provide businesses with certainty,*" and whether *there are less restrictive alternatives to accomplish the benefits.*" With the proposed changes in Sections 450.01c and 493.01b, as a existing and prospective residential development business, I believe these changes make planning for a Wastewater Plant more uncertain and are more restrictive for a "Recycled Water Storage" or evaporation (Total Containment) pond to be approved with a more reasonable setback to residential property uses.

With this in mind I would propose additional language that was suggested in a prior draft from JUB Engineering which would be inserted into Section 450.01: “Treated effluent storage and evaporation water in lagoons for Class A and Class B recycled water must be placed a minimum of fifty (50) feet from residential property line; for Class C recycled water that has been disinfected must be a minimum of one hundred (100) feet from residential property lines.”

2. Section 493.09ci: In the last sentence in Draft 4 after “This requirement does not apply to” should delete the rest of the sentence and insert “Total Containment or Recycled Water Storage Lagoon areas which are permitted under the Recycled Water Rules.” Or, at least add Class B water as Class B buffer guidelines don’t require a fence for Class B.
3. Section 010: The proposed definition in Subsection 59 for “Total Containment Lagoon” should strike the words “with no other permit to dispose.” This language would not allow a “Recycled Water Storage” lagoon to dispose of the effluent at the same time as the impoundment area is being used as an evaporation disposal lagoon (Total Containment).
4. Section 455.02a: In the current Draft 4 there needs to context added in this Subsection; in its proposed form it is not clear what private plan is the subject of the first sentence in the paragraph. It seems the context this Subsection used to refer to a design engineer providing for an alternative process to be proposed in the Facility Plan or PER. This suggestion for adding context comes from reading the prior rule which described in deleted Subsections alternative methods. Because these were removed it makes for uncertainty in what types of alternative methods are acceptable therefore becoming more difficult rather than simpler and supportive of new innovation.
5. Section 660: The proposed change deleting the phrase “will have no significant impact on the environment or on the public health” should be reinstated with the addition of “more than the Rules allow.” The change that then adds “are not necessary for the protection of public health and the environment,” should be deleted but keeping the last phrase.

When reading the proposed sentence all together, it is very confusing as to how to obtain a waiver. For instance, if I propose to reduce the chlorination of a rule set amount of 10 to 5 (used for hypothetical only), how do I demonstrate “that such activities for which the waivers are granted are not necessary for the protection of public health and the environment, ...”; In other words, do I say that the 5 I suggest is “not necessary for the protection of public health” when the rules say a 10 is for the public health. How do I prove such reduction is not “necessary?” Should I not be showing that there is no substantial adverse effect on the public health. The clarity that the Governor has stated is necessary does not seem to be met by the Draft 4 proposed change in this Section.

Thank you again for allowing me as an business owner to participate in the rule making.

Sincerely,



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