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October 1, 2025

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

RE: Wastewater Rules, Docket No. 58-0116-2501

Dear Dr. Nelson,

On behalf of both **Riverence Farms LLC** and **Riverence Provisions LLC**, I am writing to provide comments on the rulemaking process initiated in compliance with Executive Order No. 2020-01, Zero-Based Regulation regarding the Wastewater Rules (IDAPA 58.01.16). We understand that the purpose of this process is to reduce regulatory burden and increase clarity and ease of use, but we are concerned that some of the changes proposed to simplify the rules create ambiguity for aquaculture facilities and potentially expose facilities operated by our companies to additional regulation, not less.

As provided in the Idaho Code Section 39-107D Statement in the Notice, the “Wastewater Rules address the review and approval of plans and specifications for sewage treatment plants and other waste treatment and disposal facilities and the standard by which the agency does the review and approval.” As required by Idaho Code 39-118(5), “all plans and specifications for the construction, modification, expansion, or alteration of waste treatment or disposal facilities for aquaculture facilities” must be reviewed and approved by DEQ. However, some of the proposed changes to the Wastewater Rules create confusion as to where aquaculture facilities fit into these rules, what provisions do and do not apply to them, and the extent of those rules given some vague and overly broad definitions of key terms. One solution to avoid this is to expressly exclude aquaculture facilities entirely from the Wastewater Rules given that they are fundamentally different than facilities treating municipal wastewater and instead rely solely on Idaho Code 39-118(5) for the review process. Another solution would be to address aquaculture facilities in its own section of the Wastewater Rules and ensure that certain, broadly defined terms do not apply to aquaculture facilities.

To further explain, we have identified several areas of concern as set forth below.

1. Aquaculture Facilities are not Community Wastewater Systems. Aquaculture facilities have historically been excluded from the definition of a “Community Wastewater System” given the exception in Section 010.39.b (“any industrial or other nonmunicipal wastewater system which is covered under Section 401”).¹ However, a proposed change in Section 401 (Review of Plans

¹ The exclusion in Section 010.39.a does not apply given that our systems to remove fish waste was paid for with private funds, not public funds as oddly required for the exemption.



for Nonmunicipal Wastewater Systems) indicates that the plans and specifications must be submitted to DEQ as specified in Idaho Code 39-118(3). Idaho Code 39-118(3) does not apply to aquaculture facilities, only Idaho Code 39-118(5), so the proposed change would effectively exclude aquaculture facilities from coverage under Section 401. As a result, an unintended consequence of this proposed change appears to be that aquaculture facilities would be inappropriately deemed a “Community Wastewater System” constituting a significant change that would impose new regulations on aquaculture facilities that are not appropriate for our operations. Given that we do not believe that is DEQ’s intent, a couple of options to avoid this outcome would be: (i) specifically exclude aquaculture facilities, as defined in Idaho Code 39-118(5), from the definition of a Community Wastewater System; (ii) remove the reference to sub-section (3) of Idaho Code 39-118 in Section 401; (iii) add a new section to the Wastewater Rules regarding the review of the waste treatment components of aquaculture facilities pursuant to Idaho Code 39-118(5) to the Wastewater Rules and reference that new section in the exclusions to the definition of a Community Wastewater System; or (iv) expressly exclude aquaculture facilities from the Wastewater Rules entirely as previously mentioned.

2. On a related note, Section 401.07 includes a new provision that “[a]ll plans and specifications submitted pursuant to Section 401.01 must conform in style and quality to regularly accepted engineering standards and applicable guidance and include the basis of design information and applicable design criteria.” Section 004 incorporates by references certain sections of the ‘Idaho Standards for Public Works Construction,’ 2020 Edition. Given that aquaculture facilities are not public investments nor are they the same as wastewater systems that handle municipal wastewater, it is unclear how this guidance will or will not be applied to aquaculture facilities.
3. An aquaculture facility is not a Wastewater System nor is water still being beneficially used Wastewater. A new term, wastewater system, has been added that is defined as “[a] *collection system*² or *treatment facility*³, 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.” Wastewater Rules, Section 010.68 (defined terms changed to italics). While we can appreciate DEQ’s desire to reduce word count by consolidating certain defined terms, this is a very broad definition—particularly the second sentence—that combined with the equally broad definition of wastewater causes us concern that an aquaculture facility could be inappropriately designated a wastewater system rather than only those components of the facility used solely for waste treatment purposes.

² Collection System is defined as “[t]hat portion of the *wastewater system* or *treatment facility* in which *wastewater* is received from the premises of the *user* and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/lift stations, and appurtenances. For the purposes of *municipal wastewater*, a *wastewater system* must serve two or more wastewater service connections.” Wastewater Rules, Section 010.09 (defined terms changed to italics). User is defined as “[a]ny person served by a *wastewater system*. Also known as a service connection.” Wastewater Rules, Section 010.62 (defined terms changed to italics).

³ Treatment Facility is defined as “[a]ny physical facility or land area for the purpose of treating, neutralizing or stabilizing *pollutants* including treatment plants; the necessary conveyance, intercepting, outfall and outlet sewers; pumping stations integral to such plants or sewers; disposal or reuse facilities; equipment and furnishing thereof; and their appurtenances; also known as a treatment system, wastewater treatment system, wastewater treatment facility, or wastewater treatment plant.” Wastewater Rules, Section 010.61 (defined terms changed to italics).



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To explain, while the first part of the definition references two other defined terms that have some constraints on their meaning, the second part of the definition states that a wastewater system includes “all structures, equipment, or processes required to collect, convey, treat, store, and *dispose*⁴ of *wastewater*.” Wastewater Rules, Section 010.68 (defined terms changed to italics). When that language is combined with the definition of *wastewater*⁵—essentially any combination of water and pollutants from activities and processes—it arguably reclassifies all water within an aquaculture facility that is still being beneficially used to raise fish as “wastewater” and the entire facility a “wastewater system” rather than an aquaculture facility. Both definitions should be revised to make it clear that water that contains pollutants, but that is still being beneficially used within a facility is not “wastewater” nor are all the structures, equipment, or processes that collect, convey, or store such water a “wastewater system.” Without such revisions, we are concerned that the scope of these regulations would have a greater, unjustified reach into our operations. As just one example of the problems that would ensue is to consider the new requirement in Section 201.03.b that any person that owns or operates a wastewater system must at all times “[e]nsure that untreated or partially treated wastewater is not disposed of to the ground surface unless otherwise permitted or approved by the Department.” In the context of a wastewater system treating municipal wastewater this provision makes sense — no one wants to see human sewage on the ground. But in the context of aquaculture, that could mean that if a fish splashes water onto the ground alongside a raceway we could be a risk of violating this operational requirement even though raceways should never be deemed a wastewater system in the first place. Such a result cannot be DEQ’s intent in its effort to simplify these rules and reduce regulatory burden.

4. Definition of Pollutant. The proposal to strike this term and incorporate by reference the definition in the IPDES Rules (IDAPA 58.01.25) is problematic because the definition in the IPDES Rules does not include a key exclusion that has been a part of the regulations since at least 1997. Specifically, the fact that the phrase “biological materials” included in the definition of a pollutant does not include “live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities.” We request that this 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.
5. Can DEQ please explain why it is proposing to strike Section 402 (Plan and Specification Review Dispute Resolution)? Is DEQ’s policy set out in PS20-08 no longer relevant?

⁴ Disposal is defined as the “[r]emoval of *wastewater* derived from municipal and nonmunicipal sources utilizing discharge, reuse, total containment, or other allowable methods.” Wastewater Rules, Section 010.13 (defined terms changed to italics).

⁵ Wastewater is defined as “[a]ny 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; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and *sewage*.” Wastewater Rules, Section 010.64 (defined terms changed to italics). Sewage is defined as “[w]ater-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present.” Wastewater Rules, Section 010.54.



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6. Does Section 409 (Demonstration of Technical, Financial, and Managerial Capacity) now apply to aquaculture facilities? While the proposed cuts to the language in the header are arguably more aggressive than necessary, given the issue concerning Community Wastewater Systems discussed earlier we are concerned that this provision could now be imposed on aquaculture for the first time and create an undue burden on our ability to upgrade our facilities even though we do not believe that is DEQ's intent.

Thank you in advance for your consideration of our concerns and for the opportunity to provide comments on the proposed rulemaking.

Best regards,

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