

September 30, 2025

To: Ms. Mary Anne Nelson
Idaho Department of Environmental Quality (IDEQ)
Boise, ID

From: Don Campbell
First Ascent Fish Farm
Buhl, ID

Re: Comments regarding Proposed Changes
IDEQ Wastewater Rules
IDAPA 58.01.16, Docket No. 58-0116-2501

The current proposed changes to Idaho Administrative Rules are intended to comply with the governor's Zero Based Regulation. As such, it is the agencies intent is to "streamline" rules. While this is a worthwhile goal, one of the problems associated with "streamlining," whether purposeful or not, is an increase in agency and personal discretion in interpretation of those remaining rules. Thus, it is imperative proposed changes be carefully considered.

One of the guiding principles of administrative rules is remaining true to legislative intent. There are instances in which an agency misinterpreted legislative intent and the legislature was obligated to clarify its intent.

Specifically in regards to aquaculture, an explicit exemption was adopted, around 1997, to exclude live or the occasional dead fish from the definition of biological materials as applied to the definition of wastewater.

Yet, it appears IDEQ chose to ignore legislative intent and struck this exclusion from a rule last year.

This indicates agency personnel can exercise their own discretion and interpretation which may or may not reflect the goals of sister agencies or the State.

Additionally, personnel changes within IDEQ and other agencies has, at times, been rapid. Witness that which has happened within the IDEQ-Twin Falls office these last 2 years. While these changes do not necessarily mean interpretation and enforcement will change,

historically there are instances in which personnel changes have led to different rule interpretation and enforcement.

Thus, adhering to legislative intent is important. In this case, legislative intent included “streamlining” but it also requires judgement as to that which may be stricken or that which remains.

Based on the inclusion of the exemption in, or around, 1997, retaining the phrase “biological materials shall not include live or occasional dead fish that may accidentally escape into the of the state from aquaculture facilities” does not overburden the intent of streamlining this section of code.

Additionally, maintaining this phrase clarifies and supports legislative intent regarding aquaculture.

Therefore, I propose the following: DO NOT DELETE the phrase in the Wastewater Rule which states: “biological materials shall not include live or occasional dead fish that may accidentally escape into the of the state from aquaculture facilities.”

Agency Jurisdictional Overlap.

Streamlining should also find and recognize overlapping rules/regulations between and among agencies. In this case, The Idaho Department of Agriculture oversees aquaculture operations in the State of Idaho. Its licensing and inspection policies and procedures review all aquaculture facilities and operations. Depending on the issue, inspection may be annually or biannually.

Additionally, from my own personal experience, the Idaho Department of Agriculture is more responsive and better suited to address activities on a fish farm than IDEQ.

For example, fish screening and netting devices are inspected for both intake and outlet sources. The Department is responsible for invasive species inspection, and sampling. Further, the Department of Agriculture is much more responsive than IDEQ. They get things done.

Given that the Idaho Department of Agriculture is the lead agency for aquaculture additional oversight by IDEQ is redundant. IDEQ should consider turning all “on farm” review functions over to Idaho Department of Agriculture. Idaho Department of Agriculture should consider accepting.

In this case, IDEQ jurisdiction for “on farm” activities would begin at the point where fish farm water is discharged to waters of the State.

Further, this administrative change comports with the goal of Zero-based regulation.

The New and Ambiguous Definition of “Wastewater System.”

Both USEPA and IDEQ use extremely negative terms such as “wastewater” and “raw sewage influent” to describe the source water for aquaculture in the State of Idaho.

There is no recognition on the part of either agency that southern Idaho is blessed with the 1000 springs. These springs are world famous and provide the best water quality in the world for raising fish. Additionally, southern Idaho also has an incredible geothermal resource, the waters of which help produce the best warmwater fish in the country.

Yet, USEPA and IDEQ have defined our influent water as “raw sewage influent” and have done so for years.

Use of these phrases in legislation, rules/regulations, and on a Discharge Monitoring Report (DMR) needs to be corrected. It is disingenuous these terms are even considered for a fish farm.

When I’ve asked IDEQ and USEPA agency people about using these words to define our influent and use water, their answer is some asinine comment like:

“well, I’m just doing my job,” or, “I don’t know, it’s just the way it is.”

Well, change it. I challenge anyone at IDEQ or anyone in government including the governor or the President of the United States to look at the spring water and or well water we use and say:

“Yep, that’s waste water” or “Yep, that’s “raw sewage.”

Yet, NO ONE at either USEPA or IDEQ has been willing to make the “HUGE LEAP” and call the water we use on our fish farms “spring water.”

The influent water for my farm is spring water and well water. It is not “Raw Sewage” and it is not “wastewater.”

Can you imagine the market damage just waiting for someone to pick up a DMR and conclude:

“OMG, the fish industry of the Idaho raises their fish -- the fish we are eating -- in wastewater and raw sewage!” or,

“All those salmon, steelhead, and trout that are stocked into our lakes and streams, and those that go to the ocean, they are raised in wastewater and raw sewage. It’s no wonder our anadromous fish are in peril!”

It’s about time for this to be recognized and corrected by both the legislature, executive branch agencies, the courts, and the governor.

Sincerely,

Donald K. Campbell
First Ascent Fish Farm