



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502
www.deq.idaho.gov

C.L. "Butch" Otter, Governor
John H. Tippetts, Director

MEMORANDUM

TO: DEQ Regional Administrators
Drinking Water and Wastewater Regional Managers
Drinking Water and Wastewater Program Managers

FROM: John H. Tippetts, Director

THROUGH: Barry N. Burnell, Water Quality Division Administrator

DATE: March 27, 2018

RE: Delegation of Authority for Issuing Waivers for the sections of the Idaho Rules for Public Drinking Water Systems, Wastewater Rules, and Recycled Water Rules

Pursuant to Idaho code §67-2405(2)(c), I hereby delegate the authority to waive certain requirements in the administrative rules specified below to the Regional Administrators. This memo outlines the process DEQ will use for the issuance of waivers. This delegation is effective immediately and supersedes the October 7, 2014 and May 21, 2015 delegations issued by former Director Curt Fransen.

Statutory Exclusion

In accordance with Idaho Code §39-118, the Director may determine that a particular facility or category of facilities will produce no significant impact on the environment or on public health and may waive the submittal or approval requirements for that facility or category of facilities. However, this delegation does not apply to any particular facility or category of facilities.

Administrative Rule Authorities for Issuing Waivers

IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems. Section 005.01.a. states the Department may waive any requirement of Sections 500 through 552 that is not explicitly imposed by Idaho Statute, if it can be shown to the satisfaction of the Department that the requirement is not necessary for the protection of public health, protection from contamination, and satisfactory operation and maintenance of a public water system.

This delegation does not include the operating criteria in Section 552.

IDAPA 58.01.16, Wastewater Rules. Section 660 states that waivers from the requirements of these rules may be granted by the Director on a case-by-case basis upon full demonstration by the person requesting the waiver(s) that such activities for which the waivers are granted will have no significant impact on the environment or on the public health.

IDAPA 58.01.17, Recycled Water Rules. Section 940 states that waivers from the requirements of these rules may be granted by the Director on a case-by-case basis upon full demonstration by the person requesting the waivers that such activities for which the waivers are granted will not have a detrimental effect upon existing water quality and beneficial uses are adequately protected.

Waiver Review Process

The intent of the process is to ensure consistency statewide for issuing or denying waivers from rule requirements. All waiver requests will be reviewed by the regional office staff and the state office staff.

Waiver requests for these requirements shall be submitted and approved prior to construction or during construction if an issue is found that prevents the project from being constructed as designed. Typically, waiver requests should be submitted with the preliminary engineering report or in conjunction with submission of plans and specifications.

The facility owner, operator, permittee, or consultant submits the request in writing to the regional office. The waiver request must identify the specific rule section(s) to be waived, provide written documentation that demonstrate how any mitigating or substituting conditions, construction techniques, or other site specific factors will be provided to meet the waiver requirements outlined below.

- For the drinking water rules, submittals must ensure the protection of public health, protection from contamination, and satisfactory operation and maintenance of a public water system.
- For the wastewater rules, submittals must demonstrate that there will be no significant impact on the environment or public health.
- For the recycled water rules, submittals must demonstrate no detrimental effect on existing water quality and that beneficial uses of ground and surface waters are adequately protected.

The following outline shall be used for all waiver requests:

1. The regional office staff shall send the request and supporting information to the respective state office program manager(s) or designee(s) as soon as practical after the request is made.
2. Regional staff will discuss the waiver request with the program manager or designee early in the process to identify any issues and come to a preliminary consensus.
3. The regional staff will review the waiver request to determine if sufficient documentation was provided to justify issuing a waiver and provide a written preliminary determination. The regional staff in preparation of the preliminary determination shall document the justification for approval or denial based upon the information submitted by the requestor, the waiver requirements, and the rules. The preliminary determination shall be submitted to the state office program manager or designee by the regional engineering manager.
 - o If consensus is reached, the program manager or designee will document the decision and submit it to the regional engineering manager. E-mail documentation is acceptable.
 - o If consensus is not reached, the preliminary determination will be provided to the engineering peer group and a teleconference held to reach consensus.
 - o If a consensus is not reached with the engineering peer group, then the Water Quality Division Administrator will make a final determination.
4. The regional office staff is responsible for composing the correspondence to the requestor and filing documentation in EDMS.
5. The Regional Administrator will sign the correspondence for the waiver.
6. Approval letters for plans and specifications, well site evaluations, or any other type of project that involved the issuance of a waiver shall state that a waiver was issued for the project and include a brief description of what rule requirement was waived. Failure of the owner or operator to comply with any conditions or criteria of the waiver, voids the waiver. Failure to construct facilities in compliance with approved plans and specifications is a violation of Idaho §39-118.

APPROVAL: John H. Tippetts 3/23/2018
John H. Tippetts, Director Date