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## Idaho Conservation League

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Submitted via email: [paula.wilson@deq.idaho.gov](mailto:paula.wilson@deq.idaho.gov)

**Re: Idaho Conservation League Comments re Idaho Pollutant Discharge Elimination System Program: Docket No. 58-0125-1401 - Negotiated Rulemaking. Public Comment period #7**

Dear Ms. Wilson;

Since 1973, the Idaho Conservation League (ICL) has been Idaho's voice for clean water, clean air and wilderness—values that are the foundation for Idaho's extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. As Idaho's largest state-based conservation organization, we represent over 25,000 supporters, many of whom have a deep personal interest in protecting Idaho's water quality, fisheries and the health of Idaho residents. The issuance of NPDES permits is critical to protecting and restoring water quality in Idaho. Idaho's effort to obtain primacy over discharge permits issued within its borders has the potential to significantly affect water quality in Idaho.

ICL appreciates the opportunity to review the "Complete Draft IPDES Rules" and provide comment.

### Section 500 - Enforcement

It is our understanding that the EPA will not approve IPDES related rules that are less stringent than federal rules. With this in mind, we note that the DEQ rules (and statutes) related to CWA/IPDES enforcement and penalties are much less stringent than the federal version. For instance, Idaho statutes referenced in the IPDES rules provides that penalties for IPDES civil violations are a maximum of \$10,000 per violation. The federal rules provide for these violations are \$37,500 per violation. There are numerous other differences regarding penalties – max. penalty per day, per violation, for continuing violations, civil vs. criminal, etc. We believe that these differences make the Idaho rules less stringent than the federal rules. The Idaho rules and statutes need to be changed to mirror the federal provisions.

*ICL Comments Re: Idaho Pollutant Discharge Elimination System Program: Docket No. 58-0125-1401 - Negotiated Rulemaking. Public Comment Period #7*

#### Section 500 – Enforcement

There does not appear to be a section of these rules that provides for citizen enforcement of IPDES violations. Similarly, this matter is not dealt with in any of the Idaho statutes that re referenced in the IPDES rules. We believe that the State must include a means of citizen enforcement that mirrors the language found in the federal statute and in the CFR. Failure to do so means that the IPDES rules are less stringent than the federal version. If DEQ does not agree, please provide us with a response that explains DEQ’s reasoning.

#### Section 010.52 – Definition of Maximum Daily Flow

Should this definition be modified so as to provide that this term refers to the maximum treated throughput of a facility rather than just the maximum amount of flow that can be received by the facility?

#### Section 010.76 – Definition of Secondary Industry Category

We recommend that DEQ not utilize the abbreviation SIC in this definition. SIC typically stands for Standard Industry Classification. Using it to as an abbreviation for Secondary Industry Category could cause confusion.

#### Section 107.04 – Final Permit

It is not clear to us why there is specific language in this section referring to comments from EPA. Is this stating that EPA comments will be treated differently then public comments or that the EPA comments will be received on a different timeline than public comments?

#### Section 108.02 Fact Sheet

At a prior rulemaking meeting DEQ staff had committed to developing and circulating factsheets for all draft IPDES permits. This is contradicted by the text in this section. Pursuant to this text, minor facilities and activities would not have factsheets developed.

We believe that the public needs to have access to a factsheet to review and provide comment on draft IPDES permits for minor facilities. This is especially true with regard to the large number minor WWTPs in Idaho. We would appreciate it if DEQ would add language providing that factsheets will be developed for minor faculties too.

#### Section 110.02 Fee Schedule

We believe that it is inappropriate to charge municipalities fees associated with IPDES permit and to give private, for profit, companies general IPDES permits for free and with no annual fees. This is an example of Idaho taxpayers being forced to foot the bill for the private profit of companies. We ask that DEQ please adjust this fee schedule so as to ensure that all facilities that utilize IPDES permit pay their fair share.

#### Section 204.01 – Petition for Review of a Permit Decision

This section reads: “Appeal from a final IPDES ...” We wonder if it should read “Appeal ~~from~~ from of a final IPDES ...”

Please contact me if you have any questions at 208-345-6933 x 24 or [jhayes@idahoconservation.org](mailto:jhayes@idahoconservation.org)

Sincerely,



Justin Hayes  
Program Director