



UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
WATER AND
WATERSHEDS

MAR 10 2017

Mr. Barry Burnell, Administrator
Water Quality Division
Idaho Department of Environmental Quality
1410 N. Hilton
Boise, Idaho 83706

(sent to: barry.burnell@deq.idaho.gov)

Re: U.S. EPA's Comments on IPDES Program Submission

Dear Mr. Burnell:

On August 31, 2016, the Idaho Department of Environmental Quality (IDEQ) transmitted the Idaho Pollutant Discharge Elimination System (IPDES) program submission ("program submission") to the U.S. Environmental Protection Agency (EPA). After completing an initial review, in a letter dated September 30, 2016, the EPA found the program submission to be complete in accordance with 40 CFR Part 123. In that letter, however, the EPA identified some initial issues with the program submission that need to be resolved prior to final program approval. The EPA anticipated, and subsequently mutually agreed, to extend the statutory review period until June 30, 2018, to accommodate both IDEQ's and EPA's administrative processes associated with the IPDES program. Both agencies agreed that the identified issues could be discussed and potentially resolved during the extended statutory review period. In addition, the EPA committed to provide IDEQ with any additional issues or questions regarding the program submission.

Since receipt of the program submission, the EPA has continued to review the IPDES program documents in order to provide a comprehensive list of comments and concerns to IDEQ. The purpose of this letter is to convey the EPA's remaining concerns, comments, and questions with regard to the program submission. The September 30th letter along with the attached Excel worksheet encompass all of the EPA's concerns, comments and questions on the program submission. The EPA believes that some of the issues raised may warrant further discussion to better understand IDEQ's intent.


In order to track the resolution of the EPA's specific comments, questions and concerns on the program submission, we request IDEQ provide an individual response to each item on the Excel worksheet that has been provided with this letter. We are available to discuss and provide clarification as needed to resolve these items in a timely manner.

The EPA anticipates that some of the concerns raised in this letter and our September 30th letter will result in changes to the program submission as well as introduction of legislative bills for the IPDES program. To ensure that the public process concludes by the end of the statutory review period, the EPA requests that any changes to the program submission and final versions of

legislative bills be conveyed to the EPA by May 1, 2017. This date will allow the EPA to complete the required public process by the end of September 2017. If IDEQ needs more time, the EPA is willing to discuss a later date.

Please feel free to call me at (206) 553-1855 if you would like to discuss this matter, or you may contact Mike Lidgard, NPDES Permits Manager, at (206) 553-1755 or by email at lidgard.michael@epa.gov.

Sincerely,


Christine Psyk, Acting Director
Office of Water and Watersheds

Attachment

cc: Ms. Mary Anne Nelson, IPDES Program Manager (sent to:
mary.anne.nelson@deq.idaho.gov)

Mr. Doug Conde, Idaho Attorney General's Office (sent to: douglas.conde@deq.idaho.gov)

Attachment: EPA Comments – IPDES Program Review

ID No.	Document	Page	Section/Heading	Narrative Description of Issue
1	AG Statement	3		The AG Statement explains that NMPs that are developed in connection with the IPDES program are available to the public. The statement goes on to explain that this is because NMPs are required to be submitted with the CAFO NPDES permit application and are considered effluent data. Are NMPs for unpermitted facilities available to IDEQ. (e.g., in order to determine if the CAFO is subject to IPDES)? The AG Statement should explain IDEQ's authority to obtain NMPs.
2	AG Statement	3		For purposes of NPDES, NMPs for permitted facilities are considered effluent data, thus, are publicly available. EPA suggests that the “may” be changed to “are” in the 4th sentence, and conforming changes be made in other program documents.
3	AG Statement	6		This part of the AG's statement describes DEQ's CAFO authority. There is a description of the MOU between DEQ and ISDA. Part of that description states that the MOU provides that DEQ and ISDA will coordinate and consult with respect to enforcement for actions that violate both the IPDES regs and ISDA regs. There should be a clear description of how enforcement coordination will occur. Who will take the lead on enforcement? How is that determined? In addition, the discussion of the overlap between ISDA and IDEQ fails to address what happens if there is a discharge without a permit. The discussion of the overlap should clarify that IDEQ has independent authority to determine whether or not there has been a discharge without a permit.
4	AG Statement	34		This section describes the creation of a record of public meetings. It would be helpful if additional detail was provided on what the term "record" means as well as a citation to the applicable section of the state's administrative code.
5	AG Statement	56		Idaho Code 39-109 states that the "attorney general may delegate the authority and duty ... to the prosecuting attorney of the county" where the violation arises. IDEQ cannot delegate IPDES authority down to the county prosecutor. Request clarification on what this provision means, etc.
6	AG Statement	61		The AG Statement explains that IDEQ intends to follow 40 CFR 123.27(d)(2) for public participation in the State enforcement process. 40 CFR 123.27(d)(2) states that a State must provide for public participate in the State enforcement process by providing for assurance that the State will (i) investigate and provide written responses to all citizen complaints submitted pursuant to 123.26(b)(4), (ii) not oppose intervention by any citizen when permissive intervention may be authorized and (iii) publish notice of and provide at least 30 day public comment on any proposed settlement of a State enforcement action. The AG's statement says that Idaho Code 39-108(9) states that DEQ shall comply with the public participation requirements set forth in 40 CFR 123.27(d)(2). However, the AG statement does not explain how the statute (Idaho Code) satisfies the regulation (40 CFR 123.27(d)(2)).
7	AG Statement	66		This section describes the state's compliance with the requirement in CWA 402(b) that it has adequate authority to comply with 301,302,306,307 and 403. 403 should be omitted from the state's list.

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8	AG Statement	71		This section describes the state's 308 authority in the context of permit issuance and compliance programs. Would this include the authority to require additional permitting requirements and to request information pertinent to determining whether permit coverage is needed similar to EPA's authority? There is also a description of the state's prohibition of warrantless searches, is the use of IDEQ's authority pursuant to the Environmental Protection and Health Act one of the exceptions to this prohibition? Based on the description, it's unclear how/whether the exception applies. In the AG Statement regarding authority required by CWA § 402(b)(2)(A) and (B), the following statement is included: "Warrantless searches are prohibited, in the absence of either consent or exigent circumstances such as public health or environmental emergency." This appears to limit the authority of inspectors to enter premises for inspection without a warrant. Please clarify.
9	AG Statement			Given the number of sections of the regulations that will be incorporated by reference, the state should clarify in the AG statement and/or procedures for adopting revisions to federal regulations.
10	MOA	1, 7	I, II	These sections explain that DEQ will administer an IPDES program consistent with Sections 304, 307 and 402 of the Clean Water Act. Since DEQ is seeking authority for Biosolids this statement also includes Sections 405.
11	MOA	2	II	Add "conduct compliance monitoring" to the statement "In any event, EPA maintains concurrent authority with IDEQ to address noncompliance issues and to take enforcement actions."
12	MOA	21	IX	This section explains that "the sludge management program will develop and implement procedures for taking appropriate enforcement actions..." These procedures must be developed prior to program authorization and submitted with the program application.
13	MOA	8	Jurisdiction	There's a typo at the beginning of the second sentence of item #4a.
14	MOA	12	Section F. EPA Review of Draft and Proposed Permits...	There is a minor typo in paragraphs 4.c.i and 5bi: the word "statement" is capitalized.
15	MOA	8	VI.4.a	The second sentence is missing language at the beginning. Review and correct as needed.
16	MOA	23	X.A	EPA suggests DEQ consider adding the sludge violation report to this table.
17	MOA	22	X.A.8	The timeline provided for proposed revisions to the schedule of compliance inspections should be "As negotiated."
18	MOA	24	X.B.12	EPA suggest the timeframe for "notification of the commencement of federal civil enforcement actions" to be changed to "as issued."
19	MOA	29	XII.B	EPA recommends DEQ mention the biosolids program in the first paragraph.
20	MOA	29	XII.B	Bullet 3 where the current national policy references to the PCS Policy Statement and the ICIS Addendum are incorrect. The correct reference should be the 2015 Electronic Reporting Rule.

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21	MOA	32	XII.C.2	This section states that DEQ will transmit inspection information to ICIS in accordance with and on a schedule established in the PPA. However, inspection information is a required ICIS data element and its input should be in accordance with the data entry regulations.
22	MOA	38	XIII.D	DEQ should establish procedures for "routine coordination on enforcement cases between IDEQ and the appropriate legal resources within the State..." prior to program delegation. EPA recommends including these procedures as appendices to the program description.
23	PD App. F MOU DEQ ISDA	App F	4.1.2	This section describes ISDA as determining whether CAFOs who have discharged need IPDES permit coverage. ISDA, however, does not have IPDES authority; thus, this determination is beyond the scope of ISDA's authority. EPA recommends that this section of the MOU clarify that ISDA can make recommendations but that IDEQ is the ultimate decisionmaker regarding which facilities need IPDES permit coverage.
24	PD App. F MOU DEQ ISDA		Appendix F	Should Section 4.1.1 include a commitment for DEQ to "follow process and procedures for issuing a general permit as outlined in IDAPA 58.01.25 and the IPDES User's Guide?" This provision is included in Section 4.1.2, which addresses individual CAFO permits.
25	PD App. F MOU DEQ ISDA		Appendix F	Section 4.2 #2 states "Select IPDES permitted CAFOs for inspection in accordance with EPA's Compliance Inspection Manual or DEQ equivalent." Did DEQ intend to cite the Inspection Manual or the Compliance Monitoring Strategy?
26	PD App. F MOU DEQ ISDA		Appendix F	Section 4.2 #3 states that "DEQ will coordinate any planned inspections with ISDA staff during the annual meeting." Section 3.4 explains that DEQ and ISDA will hold coordination meetings and is silent on the frequency. If DEQ and ISDA intend to hold annual inspection planning meetings, the MOU should reflect this.
27	PD App. G Compliance Monitoring Strategy	5	3.2	Section 11 of the Program Description and Section 3.2 of the CMS appear to conflict with each other on how CM activities are flowing data-wise. The Program Description infers that CRIPS will be the initial recipient of CM activity data, whereas the CMS infers that ICIS-NPDES is the initial recipient for the same information. In addition, Section X.D of the MOU states that IDEQ will be the initial recipient of compliance data. Please clarify.
28	PD App. G Compliance Monitoring Strategy	14-15	4.8, 4.8.1, 4.8.2	Will CAFO inspections performed by ISDA be posted to CRIPS and ICIS, including unpermitted CAFOs?
29	PD App. H Enf. Response Guide	App H	3 and 4.3.1	The ERG contains language concerning "Technical Assistance" (section 3) as an aid to formal enforcement response and "Compliance Assistance" (Section 4.3.1) as an informal response to noncompliance. Could additional language be included in both sections stating that "Technical Assistance" is different from "Compliance Assistance" and vice-versa?
30	PD App. H Enf. Response Guide		Appendix H	The ERG contains a Notice of Compliance, which is new as of this version of the ERG. As explained in Section 4.3.3, DEQ intends to use this notice to document that all known noncompliance has been addressed and that DEQ will not take further action regarding those specific events. Any commitment not to enforce a legal requirement against a regulated party may severely hamper later enforcement efforts against that party or other parties who claim to be similarly situated.

ID No.	Document	Page	Section/Heading	Narrative Description of Issue
31	PD App. H Enf. Response Guide	11, 13	Chart	The state needs to clarify the meaning of the phrase, "consider criminal prosecution" that's used in these tables. As part of this clarification, the state should provide the underlying criteria/thought process.
32	PD App. I Enf. Procedures Manual		Appendix I	DEQ has included Section 6 of its Enforcement Procedures Manual, which is specific to Criminal Enforcement Actions. DEQ relies on its Enforcement Procedures Manual for implementation of its CIE program and therefore, EPA requests that the entire Enforcement Procedures Manual be included as an appendix to the Program Description.
33	PD App. I Enf. Procedures Manual		Appendix I	Section 6.2.2 states that "DEQ does not have dedicated criminal investigators." This section explains the procedures DEQ staff should follow when becoming aware of conduct that might be criminal in nature. This includes collecting physical evidence and conducting witness interviews. Section 6.2.3 explains that DEQ will notify DEQ Management, the Attorney General, and the DEQ Director <u>prior to</u> notifying EPA CID (emphasis added). If DEQ does not have dedicated criminal investigators, it is unclear why immediate coordination with EPA CID isn't occurring.
34	PD App. I Enf. Procedures Manual		Appendix I, section 6.2 and 6.2.1	40 CFR 403.10(f)(1)(iv) states that the State must be able to "Seek civil and criminal penalties and injunctive relief..." How will DEQ investigate POTWs and/or industrial users for criminal activities if it does not have dedicated investigators? EPA expects authorized states to implement its approved NPDES programs fully, appropriately, and timely.
35	PD App. I Enf. Procedures Manual		Sec 6.2	This section describes the offices/staff in DEQ, in the AG's office and in EPA who will coordinate on criminal matters. However, it does not describe the logistics/timing of this consultation and communication. The state should provide more details regarding how this process will occur.
36	PD App. I Enf. Procedures Manual		Sec 6.2.2	The Manual lacks a description of what should happen in an imminent hazard situation; it should be revised to say that if it's an imminent hazard case – leave immediately; if criminal, contact appropriate criminal authority (e.g., AG's office or State Police) to investigate and secure evidence. Civil inspectors/investigators are not appropriately trained for collection of criminal evidence and securing crime scenes.
37	PD App. I Enf. Procedures Manual			EPA strongly recommends that Idaho establishes procedures for using the State Police, Criminal Investigations Unit
38	Program Description	72	11.1	This section explains that the CRIPS database will maintain an inventory of all IPDES-permitted sources, including "other reporting requirements covered in both the permit (established both inside and outside a permit)." Please provide an example of a reporting requirement established outside a permit and cite the authority IDEQ would use.
39	Program Description	73	11.1	The final paragraph in 11.1 incorporates by reference how CBI is handled. For CBI materials collected during an inspection, how does CRIPS identify such materials as CBI? Can the inspector or data entry person mark information into CRIPS as CBI?

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40	Program Description	86	12.7	"The enforcement strategy for violation of Pretreatment and Sewage Sludge/Biosolids Program requirements will follow the general enforcement procedures for the IPDES Program and DEQ's Enforcement Procedures Manual." EPA is concerned about the lack of program specific procedures for biosolids. The biosolids program has unique elements that do not lend themselves well to fitting in with the general enforcement procedures outlined in the program description and enforcement response guide. Arizona's program application included a separate program description for the biosolids program. EPA requests IDEQ submit procedures specific to the biosolids program with the IPDES program application.
41	Program Description	87	13.1	Add "enforcement data" to the end of the second sentence "CRIPS will allow DEQ to compile, manage, and report IPDES Program permitting and compliance monitoring data."
42	Program Description	89	13.3	The first sentence in the second paragraph is duplicative and may be removed.
43	Program Description	67	10.1.5	This section only describes ISDA's authority and does not explain IDEQ's role in this sector. IDEQ's role and authority should be explained here; IDEQ must be the ultimate authority for regulating poultry CAFOs under the IPDES program.
44	Program Description	68	10.5.1 Inspections- Compliance monitoring for CAFOs	This section describes ISDA as conducting the inspections but does not explain how DEQ will be looped back in for compliance and enforcement. Suggest that more detail be included that describes how this part of the CAFO program will operate.
45	Program Description	71	11 Compliance Evaluation	The last paragraph describes DEQ's goal is to inspect each major facility every two years. This is contrary to the requirements in 123.26(e)(5), which requires that state NPDES programs have the procedures and ability to conduct inspections of all major dischargers occur at least annually.
46	Program Description	73	11.1.1	Procedure #4 appears to have missing information, suggestions in <u>underlined text</u> . Review baseline monitoring reports submitted by IUs subject to categorical pretreatment standards to determine the need for pretreatment requirements <u>for the CIU</u> or development of a pretreatment program <u>for the receiving POTW</u> .
47	Program Description	73-74	11.1.1	How will CIUs be handled in the CRIPS database? Will they have permit information entered into CRIPS just like a direct-discharging NPDES facility?
48	Program Description	74, 80-82	11.1.1, 11.1.2, 12.1, 12.2	These sections describe the coordination among state office and regional office staff and managers. EPA requests IDEQ establish standard operating procedures clarifying coordination of compliance, inspection and enforcement processes and submit these procedures with the program application.
49	Program Description	75	11.1.2	2nd paragraph of Page 75 references the 2004 <i>NPDES Compliance Inspection Manual</i> . OECA recently published an interim revised version to the manual (EPA-305-K-17-001) and is publicly available at https://www.epa.gov/compliance/compliance-inspection-manual-national-pollutant-discharge-elimination-system
50	Program Description	76, 77	11.1.2 and 11.1.3	This section identifies inspection forms and checklists to be used during program implementation. EPA requests that these forms and checklists be submitted with the program application.

ID No.	Document	Page	Section/Heading	Narrative Description of Issue
51	Program Description	79, 84	12, 12.4.2	The second paragraph states that "DEQ retains its discretion to collect any economic benefit that may have been realized as a result of noncompliance..." In accordance with EPA's 1995 Interim CWA Penalty Policy, economic benefit is required to be collected. If DEQ plans to develop its own penalty policy, EPA requests that it be submitted with the program application.
52	Program Description	86 - 91	13 (all)	Idaho has acquired the Permit and Reporting Information System (PARIS) database from the State of Washington which uses the Windsor node plugin to send data to ICIS. There isn't any mention that Idaho was planning to use the Windsor node plugin, but rather, they will be developing a data exchange flow with ICIS. However, Idaho states in Section 13.4 (ICIS-NPDES Data Exchange Flow) that "Data in CRIPS will be extracted using SQL queries and loaded into an SQL staging database" and since the staging database is a concept used in the Windsor software, is Idaho planning to use the Windsor node plugin? Or is IDEQ creating its own data exchange flow?
53	Program Description	86 - 91	13 (all)	Idaho states that they will fully implement the 2015 Electronic Reporting Rule. This includes using NetDMR for DMR data and implementing an online electronic interface for permittees to submit permit applications since PARIS was not designed for electronic application/NOI submittal. Is there a timeline for IDEQ's implementation of the 2015 Electronic Reporting Rule?
54	Program Description	86 - 91	13 (all)	Idaho states for data quality purposes, that there will be a need to reconcile what is in their system with what migrated from PCS and what Region 10 has entered in ICIS. Yet there is no specific discussion about how differences will be resolved other than the data will be reconciled. At a minimum an approach should be discussed.
55	Program Description	87	13.1.1	This section states "DEQ will seek CROMERR approval concurrent with applying for NPDES program authorization to submit an IPDES application and other information." Has DEQ sought CROMERR approval? If not what is the timeframe for doing so?
56	Program Description	89	13.4 and 13.5	These sections explain the need for EPA and DEQ to coordinate on the data migration and data quality processes prior to program implementation. EPA suggests adding provisions to the EPA-DEQ PPA for these tasks, as appropriate.
57	Program Description	91	13.6.2	This section explains that DEQ will work to establish business management and quality control practices to ensure the quality of data and to provide for efficient, accurate, and complete data entry into CRIPS that complies with EPA data requirements. EPA requests that these procedures be developed and submitted with the program application.
58	Program Description	63	9.4.2-Coverage under a general permit	There's a typo: In the first sentence, "for" should be deleted after the word, "process."
59	Program Description	25	Administrative record	The list of the permit provisions that will be entered into the state database includes special conditions and compliance schedules as separate items. What kind of compliance schedules is the state referring to -- permit schedules or enforcement schedules? It would help to clarify since permit compliance schedules are special conditions so, would not need to be listed separately from special conditions.
60	Program Description	27	Application Completeness Determination	This discussion does not mention minimum levels or waivers under 122.21(j) or (q), which are cited in 122.21(e). The state's regulation should include the same references as included in 122.21(e).

ID No.	Document	Page	Section/Heading	Narrative Description of Issue
61	Program Description	4	Board of Env Quality	This section should probably clarify whether the Board will play any role in the permitting process. The current discussion just says that the Board won't play a role in permit appeals; 123.25(c) is broader in scope -- it prohibits conflicted individuals from being a part of approving "all or portions of permits."
62	Program Description	37	Draft Permit & Proposed Permit	Regarding the proposed permit, will the public be informed in the Response to Comments when the permittee has provided DEQ with additional information?
63	Program Description	21	Minor Modifications of Existing Permits	The description of minor modifications includes a consideration that is not in the federal requirements, "if the proposed change will have no potential for additional deleterious impact on the environment or will not reduce the ability to confirm a permittee's compliance with applicable requirements."
64	Program Description	22	Permit prohibitions	Regarding new source or new dischargers, this seems to be echoing the requirements of 122.4(i) so why is it limited in application to just discharges from construction activities or operations? Is this a typo?
65	Program Description	85	Sec 12.6	This section explains further how DEQ will meet the public participation requirements of 40 CFR 123.27(d)(2). However, like the AG's statement, it does not explain how each of the factors in 123.27(d)(2) will be met. For example, it does not explain how/when DEQ will publish notice of and provide at least 30 days for public comment of a proposed settlement. Where in the regs or statute provide for this type of public comment period?
66	Program Description	8	Sec 3.5	See comment above re AG's statement and delegating down to the country prosecutor
67	Program Description	23	Sec 6.2.1	The section that describes minor modifications should further clarify that minor modifications will not be used to make effluent limit changes.
68	Program Description	26	Sec 6.2.4	This section should further clarify that transfers cannot occur after the expiration date of the permit
69	Program Description	9	Table 2	Need clarification as to the 1.0 FTE for "Legal" in this Table. Is this intended to capture just a single FTE or does this reflect time that would be spent by a few individuals?
70	Program Description	10	Table 3	Need clarification as to how a ½ attorney for all enforcement is adequate – examples from other authorized programs? Is this FTE in addition to FTEs for the SDWA and RCRA programs? Given Idaho's 2-year SOL is ½ an enforcement FTE sufficient to investigate and prosecute CWA criminal violations? Please provide examples of environmental crimes cases in other programs successfully investigated and completed in 2 years or less. Also, it appears that Table 3 reflects the PD wherein Idaho stated they were planning on having a liaison attorney working with criminal. Is the ½ FTE in Table 3 civil only or does it include the liaison attorney mentioned in the PD?
71	Program Description	7	Wastewater Program	Is it anticipated that there will be NPDES permits that include provisions for land application or other methods of wastewater reuse? This section is unclear; should indicate one whether that will be the case. Also, if there will be permits that include these provisions, this section of the PD should explain how the DEQ wastewater program and permits program will coordinate on developing and including them in permits.

ID No.	Document	Page	Section/Heading	Narrative Description of Issue
72	Program Description	8		The program description fails to include an adequate description of criminal enforcement capability: We are concerned about a potential need for some basic training by either the AG or State Police for civil inspectors on criminal law. We also believe it may be appropriate to include training opportunities for the criminal and civil AG personnel on the NPDES program. EPA is willing to work with Idaho on this matter.
73	Program Description	74		The program description does not adequately describe the state's criminal enforcement capability: include training of civil inspectors to recognize criminal violations; different ways of processing (collect & preserve evidence, chain of custody) – i.e., need to make sure civil inspectors know how to “switch” to being criminal investigators/inspectors when the inspection reveals there may be a criminal violation. (Similar to comment on page 8.) It is more appropriate to have a designated criminal investigator along with of number of civil inspectors who have received some level of criminal training. OECA criminal enforcement has a training program for state inspectors; may need to follow up on funding availability. There are training opportunities available through the Western States Project.
74	Program Description	83		State needs clarify how they will refer criminal cases to EPA – e.g., all felonies, since Idaho does not have felony penalties for CWA violations? Or not enough resources to do the case? What are criteria for referral?
75	Program Description			In accordance with the 1986 Guidance, EPA requests that DEQ submit all forms to be used in its program (e.g., inspection checklists, letter templates).
76	Program Description			IDEQ relies on its 1999 Enforcement Procedures Manual to describe its implementation of the IPDES Program. However, IDEQ did not include the Manual as an appendix.
77	Regulation		58.01.25.010.87	This section contains a definition of sludge that is different from 122.2 in that 122.2 states, "...treatment of municipal wastewater or domestic sewage" but this section states, "...treatment of wastewater." This comment was made in the 7/15 letter and is still unaddressed.
78	Regulation		58.01.25.109.02	The public must request a public meeting within 14 days after the date of the public notice – less opportunity than the federal requirements at 124.11, which does not place a time limitation on requesting a hearing.
79	Regulation		58.01.25.109.02.h	This provision allows the permit applicant the opportunity to provide additional information after the close of the comment period and prior to the final permit decision. Consideration of new information may require a new public comment period for the draft permit.
80	Regulation		58.01.25.201.03(i)	This regulation seems to have a less stringent definition of minor modification than the federal definition since it allows a minor mod to be made "that will result in neither allowing an actual or potential increase in the discharge of a pollutant or pollutants into the environment nor result in a reduction in monitoring of a permit's compliance with applicable statutes and regulations." This comment was made in the 7/2015 letter and is still unaddressed.
81	Regulation		58.01.25.300.10 & .11	Requirements mirroring 122.41(j) and (k) are missing from these provisions. This comment was made in the 7/2015 letter and is still unaddressed.
82	Regulation	85	Petition for judicial Review	What is the definition of "person aggrieved"? Is it just someone who has filed a petition for review? This section cites 204.25 but that subsection does not specifically define the term. Should the correct cite be 204.01?

ID No.	Document	Page	Section/Heading	Narrative Description of Issue
83	Regulation	69-70	Section 120	It would be helpful to clarify that the definition of "new source" only applies to <u>direct dischargers</u> since the state has incorporated the 403.3 definition of new sources for pretreatment by reference; this would help ensure that it's clear that the definition in Section 120 does not apply in the pretreatment context.
84	Regulation	21		Language seems to be missing from section 105.03b, "Persons proposing a new discharge are encouraged to submit their applications well in advance of the 90 or 180 day requirements to avoid delay. " 40 CFR 122.21(c)(1)
85	Regulation	21		Sections 122.21(c)(2)(i), (ii) and (iii) appear to be missing from the state requirements.