



IDAHO DEPARTMENT OF WATER RESOURCES



Negotiated Rulemaking: IDAPA 37.03.08 – Water Appropriation Rules

Presented by: Phill Hummer, Water Rights Section Manager

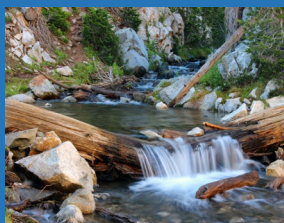
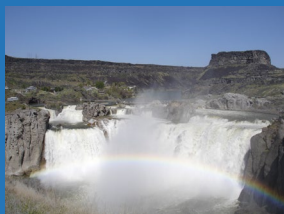
Date: June 30, 2026





Presentation Outline

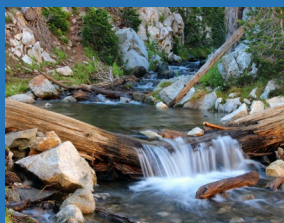
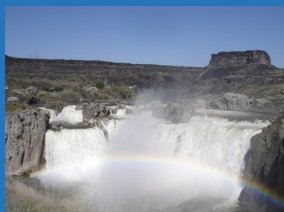
- Introduction
- 8 Year Review Schedule
- Negotiated Rulemaking Process
- Water Appropriation Rules
- Oral Comment Period
- Next Steps and Resources
- Questions





Points of Order

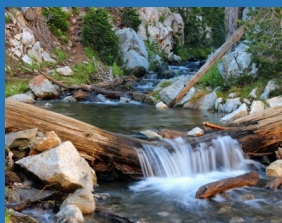
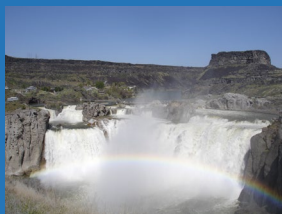
1. The meeting will be recorded and published to IDWR's website.
2. Requires polite and respectful engagement.
3. Stakeholders can give oral comments regarding the Rule today or may submit written comments.
4. IDWR representatives are participating to present the process and answer questions, not to debate the Rule
5. The schedule for the rest of the rulemaking process will be discussed at the end of the meeting.





Executive Order 2020-01 Zero-Base Regulation

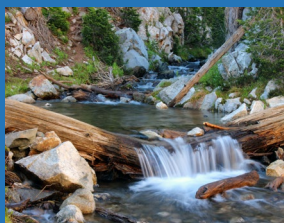
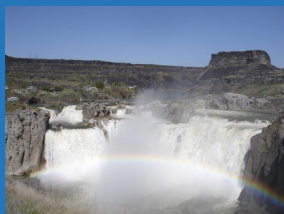
- Signed by Governor in January 2020
<https://gov.idaho.gov/wp-content/uploads/sites/74/2020/01/eo-2020-01.pdf>
- Required all agencies to undertake “**zero-base regulation**” review of all their respective rules over a five-year period.
- Zero based review completed in 2023, the resulting Rule effective July 1, 2024.





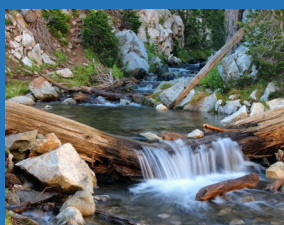
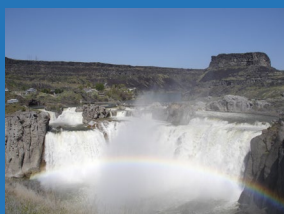
Periodic Review of Administrative Rules

- Idaho Code § 67-5292
 - (1) Each rule chapter that is in effect on July 1, 2026, shall be reviewed by the legislature on a staggered, periodic schedule between July 1, 2026, and June 30, 2034, and on a similar schedule each eight (8) years thereafter.
 - (2) Prior to the review date for each rule chapter, as established in the review schedule pursuant to subsection (1) of this section, the promulgating agency shall prepare a report for the legislature that states whether the substantive content in the rule chapter is still necessary....
- The schedule is available online at:
<https://adminrules.idaho.gov>





IDAHO DEPARTMENT OF WATER RESOURCES



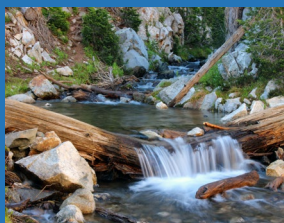
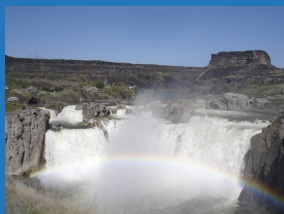
IDAHO DEPARTMENT OF
WATER RESOURCES

			8-YR REVIEW SCHEDULE							
IDAPA Number	Chapter Title	Agency Name	2026	2027	2028	2029	2030	2031	2032	2033
37.01.01	Rules of Procedure of the Idaho Department of Water Resources and the Water Resource Board	Department of Water Resources	XXX							
37.02.01	Comprehensive State Water Plan Rules	Department of Water Resources		XXX						
37.02.03	Water Supply Bank Rules	Department of Water Resources			XXX					
37.02.04	Shoshone-Bannock Tribal Water Supply Bank Rules	Department of Water Resources								XXX
37.03.01	Adjudication Rules	Department of Water Resources							XXX	
37.03.02	Beneficial Use Examination Rules	Department of Water Resources								XXX
37.03.03	Rules and Minimum Standards for the Construction and Use of Injection Wells	Department of Water Resources		XXX						
37.03.04	Drilling for Geothermal Resources Rules	Department of Water Resources		XXX						
37.03.05	Mine Tailings Impoundment Structures Rules	Department of Water Resources	XXX							
37.03.06	Safety of Dams Rules	Department of Water Resources								XXX
37.03.07	Stream Channel Alteration Rules	Department of Water Resources		XXX						
37.03.08	Water Appropriation Rules	Department of Water Resources	XXX							
37.03.09	Well Construction Standards Rules	Department of Water Resources		XXX						
37.03.10	Well Driller Licensing Rules	Department of Water Resources	XXX							
37.03.11	Rules for Conjunctive Management of Surface and Ground Water Resources	Department of Water Resources								XXX
37.03.12	Idaho Department of Water Resources Water Distribution Rules - Water District 34	Department of Water Resources								XXX
60.05.01	Rules of the Idaho State Soil and Water Conservation Commission	Idaho State Soil and Water Conservation Commission		XXX						



The Process So Far

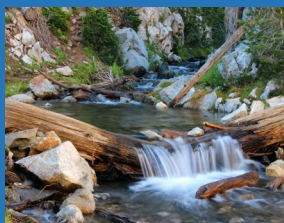
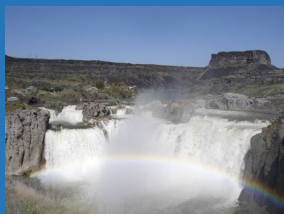
- Regulatory Analysis
 - No substantial change necessary
 - Opportunity for Improvement to information request process
- Notice of Intent - Published in the June Bulletin
- Direct notice to stakeholders
- Public Meetings
 - Opportunity for Agencies to “seek consensus on the content of a rule” by “consider the recommendations of interested persons concerning the subject of the proposed rule”
 - Intended to improve the content of a Rule through engagement with interested and affected parties





Water Appropriation Rules - 37.03.08

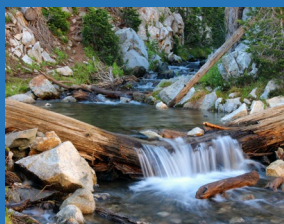
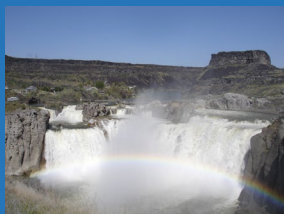
- Governs the new water right application process
- Contains the following Section
 - 000 – Legal Scope
 - 001 – Title and Scope
 - 010 – Definitions
 - 025 – Procedure for Application Review
 - 035 – Application Requirements
 - 036 – Delayed Processing
 - **040 – Processing Applications**
 - 045 – Evaluation Criteria
 - 050 – Conditions of Approval
 - 055 - Moratorium





Rule 040 – Processing Applications

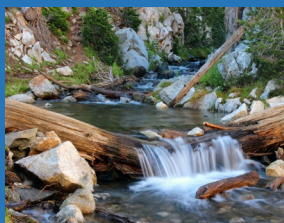
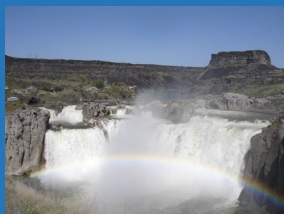
- Rule 040.04.a - IDWR may request information from applicants when needed to evaluate the proposed use of water
- Rule 040.04.b – Unless extended, the information requested must be filed within 30 days
- Rule 040.04.c – For purposes of evaluating all applications IDWR may request information ...
- Rule 040.04.d – For purposes of evaluating reallocations of Trust Water IDWR may request information
- Rule 040.04.e – Application criteria for which additional information requests are not required
- Rule 04.04.f – Application criteria for which additional information requests are required when the source is a reallocation of trust water





Ultimate Question

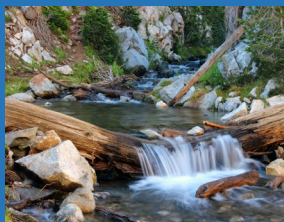
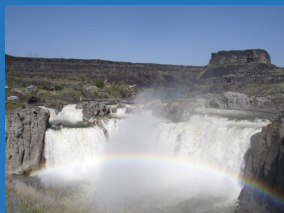
- Can Rule 040 be changed to improve the process for requesting information from applicants?
- Goals:
 1. Make the process more efficient
 2. Reduce delay
- Ideas to consider:
 - Add a deadline for information requests such as within 45 days of the filing date.
 - Add a timeframe for information requests such as to coincide with the public notice period.
 - Policies and procedures not described by Rule
 - Any other suggestions



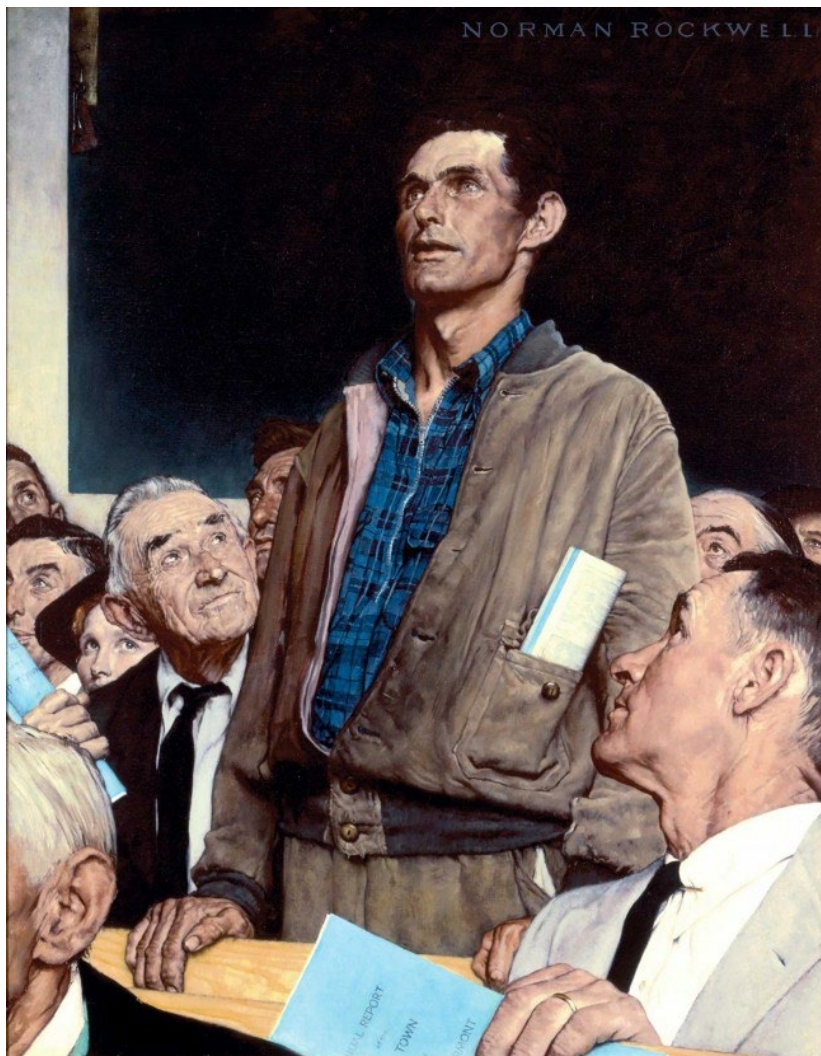


IDAHO DEPARTMENT OF
WATER RESOURCES

Oral Comment



IDAHO DEPARTMENT OF
WATER RESOURCES

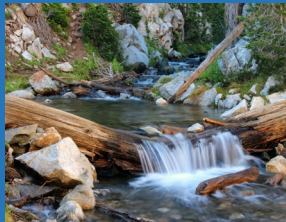


Rockwell (1894-1978), *Freedom of Speech*, 1943. Norman Rockwell Museum Collections. nrm.org



Negotiated Rulemaking Next Steps

- Submit written comments on Rule topic covered in today's meeting by July 17, 2026
- Comments submitted to rulesinfo@idwr.idaho.gov
 - Reference the rule chapter: IDAPA 37.03.08
- Second Public Meeting will be held on July 27, 2026
- Submit a Notice of Proposed Rule in August for publication in the October Bulletin.
- Submit Notice of Pending Rule for Publication and review during the 2027 Legislative Session





IDAHO DEPARTMENT OF WATER RESOURCES

IDAHO Official Government Website

Q | [Contact Us](#)

[Water Rights](#) ▼ [Groundwater & Wells](#) ▼ [Surface Water](#) ▼ [Data & Maps](#) ▼ [Water Resource Board](#) ▼ [Legal](#) ▲ [About](#) ▼

Legal Matters

[Active Legal Matters](#)
[Archived Legal Matters](#)
[Administrative Actions](#)
[Delivery Call Actions](#)
[Mitigation Plan Actions](#)
[District Court Actions](#)
[Supreme Court Actions](#)

Agency Orders

[IDWR-Issued Orders](#)
[Moratorium Orders](#)
[Drought Declarations](#)
[Curtailment Notices & Orders](#)
[Precedential Agency Orders](#)

Key Settlements & Matters

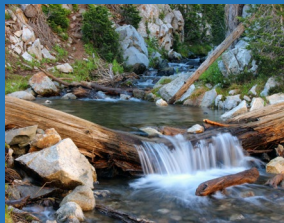
[Key Settlements](#)
[Surface Water Coalition Delivery Call](#)

Legal Authority & Procedures

[Statutes, Rules, & Agency Guidance](#)
[Rulemaking](#)
[Compliance & Enforcement Procedures](#)
[Hearing Procedures](#)

Adjudications

For information on Idaho water right adjudications, click on the Main Menu [Water Rights](#) tab.



IDAHO DEPARTMENT OF
WATER RESOURCES



Water Rights



Water Wells



Applications + Forms



Legal Matters



Rulemaking

[Home](#) » [Legal Matters](#) » Rulemaking

IDWR Rulemaking Overview

The Idaho Administrative Procedure Act (“APA”) ([Title 67, Chapter 52, Idaho Code](#)), which governs rulemaking in Idaho, defines rulemaking as the process for the formulation, adoption, amendment, or repeal of a rule. This process can be driven by a number of different events but two of the most common are the enactment of a new or amended statute by our state Legislature or the enactment of a new law or regulation by the federal government. However, a citizen’s petition to amend or adopt a new rule, a change in an agency’s process or procedure requirements, a court order, or the need to simply update the rule can cause an agency to initiate rulemaking and set the process in motion.

Rulemaking Process & Procedure

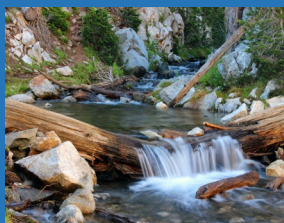
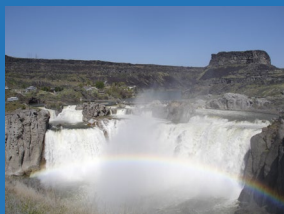
Submit a Public Comment

Rulemaking Dockets by Year

10 entries per page

Search:

Rulemaking Year	Authorizing Authority	Section	Docket Description	Status
2026/2027	IWRB & IDWR	Legal	ZBR* Rulemaking - IDAPA 37.01.01 Rules of Procedure	In Process
2026/2027	IDWR	Water Allocations Bureau	ZBR* Rulemaking - IDAPA 37.03.08 Water Appropriation Rules	In Process
2025/2026	IWRB	Planning & Projects Bureau	ZBR* Rulemaking - IDAPA 37.02.04 Tribal Water Supply Bank Rules	In Process
2025/2026	IDWR	Water Compliance Bureau	ZBR* Rulemaking - IDAPA 37.03.07 Stream Channel Rules	In Process
2025/2026	IDWR	Water Compliance Bureau	ZBR* Rulemaking - IDAPA 37.03.12 Water District 34 Rules	In Process



IDAPA 37.03.08

The Idaho Department of Water Resources (IDWR) is conducting negotiated rulemaking for these rules as part of the State's 8-year administrative rule review process established under Idaho Code § 67-5292. This process requires agencies to periodically review existing rules to ensure they remain consistent with legislative intent, are necessary, effective, and clear, and continue to meet the needs of Idaho citizens.

2026/2027 Rulemaking Documents

Archived Documents & Records

Scheduled Meetings And Deadlines

-  [Notice of Intent, Negotiated Rulemaking](#) – June 3, 2026

Documents

Comments

Comments may be sent by email or mail to rulesinfo@idwr.idaho.gov or

IDWR Rules Review Officer

PO Box 83720

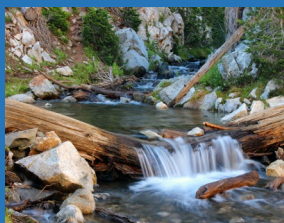
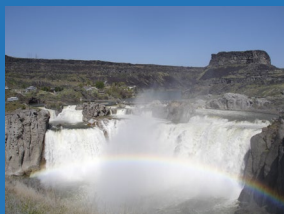
Boise, ID 83720

When submitting comments, please cite the docket number or IDAPA rule chapter to which your remarks apply. Please be aware that your comments will become part of the public rulemaking record, and may be published to IDWR's webpage.



IDAHO DEPARTMENT OF
WATER RESOURCES

Questions?



Phill Hummer, Water Rights Section Manager
Idaho Department of Water Resources
phill.hummer@idwr.idaho.gov



IDAHO DEPARTMENT OF
WATER RESOURCES