Negotiated Rulemaking:

IDAPA 37.01.01 – Rules of Procedure

Presented by: James Cefalo, Regional Manager

Date: July 8, 2026

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Presentation Outline

- Introduction
- 8-Year Review Schedule
- History of Issues
- Review Proposed Changes to Rules of Procedure
- Public Comments
- Next Steps and Resources
- Questions

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Points of Order

1. Meeting will be recorded and published to website.
2. Participants should be polite and respectful.
3. Stakeholders can provide comments today or may submit written comments.
4. IDWR representatives are participating to present the process and answer questions.
5. The schedule for the rest of the rulemaking process will be discussed at the end of the meeting.

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Executive Order 2020-01
Zero-Based Regulation

- Signed by Governor Little in January 2020.
- Required all agencies to undertake zero-based regulation review of all agency rules over a five-year period.
- IDWR completed the review of its Rules of Procedure (IDAPA 37.01.01) in 2021. Rules of Procedure were simplified and modernized.
- Substantial involvement by Idaho's water attorneys.
- Revised Rules of Procedure adopted in March 2022.

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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….
- Schedule available at: https://adminrules.idaho.gov
- IDWR decided to review Rules of Procedure in 2026.

History of Issues

- In recent years, some groups have expressed concern about a perception of bias and partiality in IDWR contested cases.
- November 2025 symposium organized to discuss structural and procedural improvements to IDWR hearings.
- Attorneys representing concerned groups prepared draft legislation to alter IDWR hearings.
- Proposed legislation was introduced at the Idaho Water Users Association (IWUA) Legislative Committee.
  - IWUA Legislative Committee formed a sub-committee to explore ideas to improve IDWR administrative hearings.
  - Sub-committee recommended updates to IDAPA 37.01.01 to implement additional safeguards to promote fairness and impartiality.
  - Strawman implements the language from the IWUA sub-committee.

Rulemaking Overview

- Notice of Intent - Published in the June Bulletin
- Direct notice to stakeholders
- Initial Public Meeting
  - Opportunity for IDWR to seek consensus on the content of a rule by considering 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.
- Written Comment Period
- Edits and Follow-Up Public Meeting

Review Proposed Changes

- Redline Version available on IDWR website.
- Version without Markup
- Comments / Discussion
- Written Comments may be submitted after this public meeting.

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Negotiated Rulemaking Next Steps

- Submit written comments on Rule topic covered in today's meeting by July 22, 2026
- Comments submitted to rulesinfo@idwr.Idaho.gov
  - Reference the rule chapter: IDAPA 37.01.01
- Hold second public meeting in early August.
- Submit a Notice of Proposed Rule in late August for publication in the October Bulletin.
- Submit Notice of Pending Rule for Publication and review during the 2027 Legislative Session

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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

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IDAPA 37.01.01 Overview

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

- Public Meeting Notice and Agenda – July 8, 2026
- Notice of Intent, Negotiated Rulemaking – June 3, 2026

Documents

- Draft Rules of Procedure (Strawman REV1 – Redline) – June 17, 2026

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.

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Questions?

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