



AGENDA

IDAHO WATER RESOURCE BOARD

Board Meeting No. 2-20
Wednesday, February 19, 2020
8:30 a.m.
Water Center
Conference Room 648A
322 E. Front St.
BOISE

Brad Little
Governor

Roger W. Chase
Chairman
Pocatello
District 4

Jeff Raybould
Vice-Chairman
St. Anthony
At Large

Vince Alberdi
Secretary
Kimberly
At Large

Peter Van Der Meulen
Hailey
At Large

Albert Barker
Boise
District 2

John "Bert" Stevenson
Rupert
District 3

Dale Van Stone
Hope
District 1

Jo Ann Cole-Hansen
Lewiston
At Large

1. Roll Call
2. Administrative Rules*
3. Non-Action Items for Discussion
4. Next Meeting & Adjourn

Some board members may attend via telephone.

* Action Item: A vote regarding this item may be made this meeting. Identifying an item as an action item on the agenda does not require a vote to be taken on the item.

Americans with Disabilities

The meeting will be held in facilities that meet the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations to attend, participate in, or understand the meeting, please make advance arrangements by contacting Department staff by email jennifer.strange@idwr.idaho.gov or by phone at (208) 287-4800.



State of Idaho
DIVISION OF FINANCIAL MANAGEMENT
Executive Office of the Governor

BRAD LITTLE
Governor

ALEX J. ADAMS
Administrator

January 31, 2020

MEMORANDUM

**TO: Executive Branch Agency/Department Heads
Rules Review Officers**

FROM: Alex J. Adams 

SUBJECT: Preparing Administrative Rules for Post-*Sine Die*

In order to ensure the continuity of administrative rules following the adjournment of the 2020 Legislative session, this memo outlines the process that agencies will need to complete prior to **February 21st**. While each agency must take these steps now, these temporary rules are conditional and will only become effective at *sine die* if the pending rules are not otherwise approved or rejected by the Legislature and/or not extended pursuant to the Idaho Administrative Procedure Act, including sections 67-5291 and 67-5292, Idaho Code.

1. Agencies must submit a completed Notice of Adoption of Temporary Rule form to DFM by February 21.
 - A template Notice is enclosed for both fee and non-fee rules.
 - Rules should be adopted as submitted to the 2020 Legislature with the following conditions:
 - a. If your agency had an omnibus docket and separate rulemaking actions, they will be combined by DFM into a **single** omnibus docket.
 - No ARRF will be required.
 - Please submit completed Notices to Adam Latham (Adam.Latham@dfm.idaho.gov)
2. If rulemaking authority is vested in a board or commission – not agency staff – the board or commission must convene to properly authorize the Notice. This is required by law. Please work closely with your attorney to ensure the Notice is properly authorized.
 - The meeting must be scheduled in a timeframe to submit a completed Notice to DFM prior to the February 21 deadline.
 - The motion should be made as follows:

“Pursuant to Section 67-5226, Idaho Code, the Governor has found that temporary adoption of this rule is appropriate to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens.

These rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws.

The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

(Include if a fee rule) The Governor has also found that the fee(s) or charge(s) being imposed or increased is/are justified and necessary to avoid immediate danger to the agency/department/board/commission’s budget, to the state budget, to necessary state functions and services, and to avoid immediate danger of a potential violation of Idaho’s constitutional requirement that it balance its budget.

Therefore, we are adopting this temporary rule to be effective upon *sine die* of the 2020 session of the Idaho Legislature. The approval is conditional and will only become effective if the rules are not otherwise approved or rejected by the Legislature and/or not extended pursuant to the Idaho Administrative Procedure Act, including sections 67-5291 and 67-5292, Idaho Code.”

3. DFM will publish those notices of temporary rulemaking at or shortly after *sine die* with the rules having an effective date as of *sine die*.
4. For these temporary rules only, agencies do not have to accept written comments pursuant to 67-5222(a) as its requirement and deadline applies to “publication of the notice of *proposed* rulemaking in the bulletin” (emphasis added). Of course, these are the same rules that each agency accepted public comments on and held over 150 public hearings on during the summer and fall of 2019.
5. Each agency must keep all records of this rulemaking process for at least two (2) years pursuant to Idaho Code § 67-5225. Please ensure the record is thorough and complete.

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF PREPARING TEMPORARY
RULES FOR POST-SINE DIE IN THE EVENT
THE 2020 LEGISLATIVE SESSION ADJOURNS
WITHOUT AUTHORIZATION OF CURRENT
PENDING ADMINISTRATIVE RULES

RESOLUTION TO PUBLISH THE IDAHO
WATER RESOURCE BOARD'S CURRENT
PENDING ADMINISTRATIVE RULES AS
TEMPORARY RULES

1 WHEREAS, the Idaho Water Resource Board (“IWRB”) is the executive branch entity with
2 statutory oversight and authority over 12 chapters of Administrative Rules in IDAPA 37, including:
3 IDAPA 37.01.01 Rules of Procedure of the IDWR; IDAPA 37.02.01 Comprehensive State Water
4 Plan Rules; IDAPA 27.02.03 Water Supply Bank Rules; IDAPA 37.02.04 Shoshone Bannock Tribal
5 Water Supply Bank Rules; IDAPA 37.03.03 Rules and Minimum Standards for the Construction
6 and Use of Injection Wells; IDAPA 37.03.04 Drilling for Geothermal Resources Rules; IDAPA
7 37.03.05 Mines Tailing Impoundment Structures Rules; IDAPA 37.03.06 Safety of Dams Rules;
8 IDAPA 37.03.07 Stream Channel Alteration Rules; IDAPA 37.03.09 Well Construction Standards
9 and Rules; and IDAPA 37.03.10 Well Driller Licensing Rules; and
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11 WHEREAS, as a precautionary measure to ensure the continuity of administrative rules
12 following the adjournment of the 2020 Legislative session, the Division of Financial Management
13 acting on behalf of the Governor of Idaho has directed all agencies to adopt all pending rules
14 currently before the Legislature as temporary rules; and
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16 WHEREAS, pursuant to Section 67-5226, Idaho Code, the Governor has found temporary
17 adoption of the IWRB’s rules is appropriate to protect the public health, safety, and welfare of
18 the citizens of Idaho and confer a benefit on its citizens; and
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20 WHEREAS, the IWRB’s rules implement the duly enacted laws of the state of Idaho,
21 provide citizens with the detailed rules and standards for complying with those laws, and assist
22 in the orderly execution and enforcement of those laws; and
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24 WHEREAS, the expiration of the IWRB’s rules without due consideration and processes
25 would undermine the public health, safety and welfare of the citizens of Idaho and deprive them
26 of the benefit intended by these rules; and
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28 WHEREAS, the Governor has also found that the fee(s) or charge(s) imposed or increased
29 are justified and necessary to avoid immediate danger to the budget of the Idaho Department of
30 Water Resources, to the state budget, to necessary state functions and services, and to avoid
31 immediate danger of a potential violation of Idaho’s constitutional requirement that it balance
32 its budget;

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NOW, THEREFORE BE IT RESOLVED that the IWRB adopts and authorizes the notice and publication of the following fee rules as temporary rules to be effective upon *sine die* of the 2020 session of the Idaho Legislature. This approval and adoption is conditional and will only become effective if the rules previously adopted by the IWRB as pending rules currently before the Idaho Legislature are not otherwise effective upon *sine die* pursuant to Idaho Code sections 67-5291 and 67-5292.

- 40 • 37.01.01, (*Rules of Procedure for the Idaho Department of Water Resources*)
- 41 • 37.02.03, (*Water Supply Bank Rules*)
- 42 • 37.03.03, (*Rules of Minimum Standards for the Construction & Use of Injection Wells*) –
43 all rules except rules: 010.07, 010.15, 010.29, 010.30, 010.40, 010.48.a, 010.48.b,
44 010.49.e, 010.54, 010.56, 010.69, 010.70, 010.75, 010.90, 010.91, 010.92, 010.101, 025,
45 040.02.b, 040.02.d, and 045.
- 46 • 37.03.04, (*Drilling for Geothermal Resources Rules*) – all rules except rules: 025.03.a,
47 025.03.b, and 025.03.c.
- 48 • 37.03.05, (*Mines Tailings Impoundment Structures Rules*)
- 49 • 37.03.06, (*Safety of Dams Rules*)
- 50 • 37.03.07, (*Stream Channel Alteration Rules*)
- 51 • 37.03.09, (*Well Construction Standards and Rules*)
- 52 • 37.03.10, (*Well Driller Licensing Rules*) – all rules except parts of rules: 035.03 and
53 036.03.

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NOW, THEREFORE BE IT FURTHER RESOLVED that the IWRB adopts and authorizes the notice and publication of the following non-fee rules as temporary rules to be effective upon *sine die* of the 2020 session of the Idaho Legislature. This approval and adoption is conditional and will only become effective if the rules previously adopted by the IWRB as pending rules currently before the Idaho Legislature are not otherwise effective upon *sine die* pursuant to Idaho Code sections 67-5291 and 67-5292.

- 61 • 37.02.01, (*Comprehensive State Water Plan Rules*)
- 62 • 37.02.03, (*Shoshone Bannock Tribal Water Supply Bank Rules*)

DATED this 19 day of February, 20120.

ROGER W. CHASE, Chairman
Idaho Water Resource Board

ATTEST _____
VINCE ALBERDI, Secretary

Memo

To: Idaho Water Resource Board
From: Mat Weaver, Brian Patton, and Garrick Baxter
Date: February 7, 2020
Re: **Administrative Rules**

Requested Action Item

Adopt and authorize the publication of the Idaho Water Resource Board's ("IWRB") current "Pending Rules" as "Temporary Rules" to be effective upon *sine die* of the 2020 Legislative Session in the event the Pending Rules are not otherwise approved or rejected by the Legislature or not extended pursuant to the Administrative Procedure Act. A resolution to this effect is attached.

Background

The IWRB is the executive branch entity with statutory oversight and authority over 11 chapters of Administrative Rules in IDAPA 37, including:

- IDAPA 37.01.01 Rules of Procedure of the IDWR
- IDAPA 37.02.01 Comprehensive State Water Plan Rules
- IDAPA 27.02.03 Water Supply Bank Rules
- IDAPA 37.02.04 Shoshone Bannock Tribal Water Supply Bank Rules
- IDAPA 37.03.03 Rules and Minimum Standards for the Construction and Use of Injection Wells
- IDAPA 37.03.04 Drilling for Geothermal Resources Rules
- IDAPA 37.03.05 Mines Tailing Impoundment Structures Rules
- IDAPA 37.03.06 Safety of Dams Rules
- IDAPA 37.03.07 Stream Channel Alteration Rules
- IDAPA 37.03.09 Well Construction Standards and Rules
- IDAPA 37.03.10 Well Driller Licensing Rules

Several other chapters of rules related to water right processes and administration are under the control of the Director of the Idaho Department of Water Resources ("IDWR").

Status of Current Pending Rules before the 2020 Legislature

On October 4, 2019, the IWRB passed resolution 26-2019 authorizing the adoption of all of the IWRB's proposed fee rules and non-fee rules as "Pending Rules" and authorizing the notice and publication of the Pending Rules in a subsequent Special Edition of the Idaho Administrative Bulletin. The IWRB's Pending Rules were published under dockets 37-0000-1900 (IWRB/IDWR non-fee rules) and 37-0000-1900F (IWRB/IDWR fee rules) in the Idaho Administrative Bulletin Vol. 19-11SE on November 20, 2019.

Before the pending rules published on November 20, 2019, can become final rules they must be reviewed by the 2020 Legislature. Non-fee rules can become final upon conclusion of the 2020 Legislative Session without the legislature taking action. However, fee rules can only become final and effective after the legislature approves the rules by concurrent resolution.

Importantly, during its review process, if the legislature finds that an agency rule is inconsistent with the legislative intent of the statute being implemented or prescribed, it may adopt a concurrent resolution rejecting the entire rule, or any subpart of the rule deemed inconsistent.

The House Resource Committee (HRC) held a hearing on January 15, 2020, to review and approve the IWRB and IDWR omnibus pending rulemaking dockets 37-0000-1900 (non-fee rules) and 37-0000-1900F (fee rules). During the hearing the HRC passed a motion approving the non-fee rule docket 37-0000-1900. In addition, the HRC passed a motion approving the fee rule docket 37-0000-1900F with the "exception of page 434, Section 55.061 the dredging component" of the Stream Channel Alteration Rules so that the HRC could "revisit it and give the public time to opine on it." On February 3, 2020, the HRC held an "informational training session on stream channel alteration and suction dredging" at which IDWR, Idaho Department of Lands, and Idaho Department of Environmental Quality staff described their respective dredge mining statutes and permitting process. On February 5, 2020, the HRC held a second hearing to review and approve the IWRB and IDWR omnibus pending rulemaking docket 37-0000-1900F, at which time the HRC passed a motion approving the fee rule docket in its entirety.

The Senate Resource Committee (SRC) held a hearing on January 29, 2020 to review and approve the IWRB and IDWR omnibus pending rulemaking dockets 37-0000-1900 (non-fee rules) and 37-0000-1900F (fee rules). During the hearing, without subsequent questions or discussion, the SRC passed a motion approving both dockets in their entirety.

The IWRB and IDWR non-fee and fee rule chapters, which were submitted to the legislature for review as pending rules, are not final and effective.

Precautionary Publication of Current Pending Rules at Temporary Rules

On January 31, 2020, the Division of Financial Management ("DFM") issued a memorandum to all executive agencies with the subject line "Preparing Administrative Rules for Post-*Sine Die*." A copy of DFM's January 31 memo is included with this briefing memo. DFM's January 21 memo

directs all executive agencies to prepare, adopt, and submit completed Notice of Adoption of Temporary Rules to DFM by February 21. The temporary rules should be adopted as they were submitted to the 2020 Legislature as Pending Rules.

The temporary rules are being adopted as a precautionary measure, to ensure continuity of all agency administrative rules in the event the 2020 Legislature adjourns without reauthorizing the administrative rules as occurred at the close of the 2019 Legislative Session. Adoption of the Temporary Rules is conditional, and they will only become effective at *sine die* “if the pending rules are not otherwise approved or rejected by the Legislature and/or not extended pursuant to the Idaho Administrative Procedures Act, including section 67-5291, and 67-5292, Idaho Code.”

In response to DFM’s request, staff have prepared two omnibus dockets: (1) Docket 37-0000-2000 (omnibus non-fee rule docket); and (2) Docket 37-0000-2000F (omnibus fee rule docket). Copies of the final docket notices are included with this briefing memo. Staff have prepared a resolution, which is also included with this briefing memo, for the IWRB’s consideration that would adopt the temporary rules and authorize their subsequent publication.

Review of Executive Order No. 2020-01 – “Zero-Based Regulation”

In past IWRB rulemaking briefings, staff recommended future rulemaking in 2020 as part of the Governor’s Red Tape Reduction Act to change and update rules in substantive ways requiring the addition of words to the rules that didn’t fit within the narrow confines of the 2019 rulemaking reauthorization process. At the IWRB’s November 14, 2019, Board Meeting staff recommended negotiated rulemaking in 2020 to modify and update the following specific IDAPA Chapters:

- **IDAPA 37.01.01 – Rules of Procedure of the Idaho Department of Water Resources** (last updated 19 years ago in 2000)
- **IDAPA 37.03.06 – Safety of Dams Rules** (not updated since at least 1993, 26 years ago)
- **IDAPA 37.03.08 – Water Appropriation Rules** (not updated since at least 1993, 26 years ago)

Since the November 14, 2019, Board Meeting the Governor has issued Executive Order 2020-01 – Zero Based Regulations (“Executive Order”). A copy of the Executive Order is included with this briefing memo. The Executive Order, among other things does the following:

1. It seeks to “institutionalize” the previous year’s one-off rules reauthorization process as a result of the legislature’s failure to reauthorize Idaho Administrative rules at the close of the 2019 Legislative Session.
2. It repealed the Governor’s Red Tape Reduction Act, Executive Order 2019-01, which was issued in January 2019.
3. It imposed a one-year moratorium on rulemaking by all agencies through the end of this year December 31, 2020, to “create a more stable regulatory environment and provide

businesses with certainty following the significant rulemaking volume undertaking in 2019.”

4. It established an on-going rule review schedule whereby, “approximately twenty percent (20-percent) of rule chapters” are subject to review each year, under a “zero-based” rulemaking approach.

As a result of the Executive Order, no negotiated rulemaking will take place in 2020. Moving forward, staff will coordinate with the Governor’s Office and DFM to plan future rulemaking efforts consistent with the Executive Order.

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES AND THE IDAHO
WATER RESOURCE BOARD**

DOCKET NO. 37-0000-2000

NOTICE OF OMNIBUS RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule(s) being adopted through this omnibus rulemaking is upon the adjournment date of the second regular session of the 65th Idaho State Legislature (sine die).

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 42-238, 42-603, 42-1414, 42-1701A, 42-1714, 42-1709, 42-1721, 42-1734D, 42-1761, 42-1762, 42-1765, 42-1414, 42-1805(8), 42-3803, 42-3913, 42-39-14, 42-3915, 42-4001, and 42-4015 Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This temporary rule adopts the following chapter(s) under IDAPA 37:

- 37.02.01 – Comprehensive State Water Plan Rules
- 37.02.04 – Shoshone-Bannock Tribal Water Supply Bank Rules
- 37.03.11 – Rules for Conjunctive Management of Surface and Ground Water Resources
- 37.03.12 – Idaho Department of Water Resources Water Distribution Rules – Water District 34

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These temporary rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mathew Weaver, Deputy Director at (208) 287-4800.

DATED this 21ST of February, 2020.

*Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720
Phone: (208) 287-4800*

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES AND
IDAHO WATER RESOURCE BOARD**

DOCKET NO. 37-0000-2000F

NOTICE OF OMNIBUS RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule(s) being adopted through this omnibus rulemaking is upon the adjournment date of the second regular session of the 65th Idaho State Legislature (sine die).

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 42-238(12), 42-603, 42-1414, 42-1701A(1), 42-1714, 42-1709, 42-1721, 42-1734(19), 42-1761, 42-1762, 42-1765, 42-1414, 42-1805(8), 42-3803, 42-3913, 42-3914, 42-3915, 42-4001 42-4010, 67-2356, and 67-5206(5), Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This temporary rule adopts the following chapter(s) under IDAPA 37:

- 37.01.01 – Rules of Procedure of the Idaho Department of Water Resources.
- 37.02.03 – Water Supply Bank Rules.
- 37.03.01 – Adjudication Rules.
- 37.03.02 – Beneficial Use Examination Rules.
- 37.03.03 – Rules and Minimum Standards for the Construction and Use of Injection Wells.
- 37.03.04 – Drilling for Geothermal Resources Rules.
- 37.03.05 – Mine Tailings Impoundment Structures Rules.
- 37.03.06 – Safety of Dams Rules.
- 37.03.07 – Stream Channel Alteration Rules.
- 37.03.08 – Water Appropriation Rules.
- 37.03.09 – Well Construction Standards and Rules.
- 37.03.10 – Well Driller Licensing Rules.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These temporary rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee(s) or charge(s) being imposed or increased is justified and necessary to avoid immediate danger and the fee(s) is described herein:

The fees or charges, authorized in Title 42, Idaho Code, as further specified below, are part of the agency's 2020 budget that relies upon the existence of these fees or charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these temporary rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget.

The following is a specific description of the fees or charges:

IDAPA 37.01.01 establishes the rules of procedure governing contested case proceedings before IDWR and the IWRB. It also addresses filing fees associated with such proceedings. This chapter was adopted under the legal authority of Sections 42-1701A(1), 42-1734(19), 42-1805(8), 67-2356 and 67- 5206(5), Idaho Code.

IDAPA 37.02.03 governs IWRB's operation and management of the water supply bank authorized by statute. The purpose of the water supply bank is to encourage the highest beneficial use of water; provide a source of adequate water supplies to benefit new and supplemental water users; and provide a source of funding for improving water user facilities and efficiencies. It also establishes lease and rental fees that are used to carry out the program which are credited to IWRB's revolving development and water management accounts. This chapter was adopted under the legal authority of Section 42-1762, Idaho Code.

IDAPA 37.03.01 implements the filing of notices of claims to water rights claimed under state law and the collection of fees for filing notices of claims to water rights acquired under state law in general adjudications. Idaho is currently in the midst of the North Idaho Adjudication (NIA) and IDWR has recently commenced the Palouse Basin Adjudication and anticipates commencing the final phase of the NIA—the Clark Fork-Pend Oreille River Basin adjudication—sometime after 2020. The Rule is integral to the processing of these general adjudications. This chapter was adopted under the legal authority of Sections 42-1414, and 42-1805(8), Idaho Code.

IDAPA 37.03.02 governs the examination requirements necessary to consider and determine the extent of application of water to beneficial use accomplished under a water right permit. The Rule also establishes that field examinations can be conducted by certified water right examiners appointed by the Director. Finally, the Rule governs licensing examination fees which are used to offset costs incurred by IDWR in reviewing and determining the extent of beneficial use. This chapter was adopted under the legal authority of Section 42-1805(8), Idaho Code.

IDAPA 37.03.03 governs injection wells in Idaho. The Rule requires all injection wells to be permitted and constructed in accordance with the Well Construction Standards Rules (IDAPA 37.03.09), which protect ground water resources from quality impairment. It is also necessary to maintain this Rule in order for the IWRB to maintain compliance with federal law, under which authority Idaho regulates the permitting, construction, and operation of certain injection wells within the state. Finally, the Rule governs inventory and permit fees which are used to partially fund the operation of the Underground Injection Control program in Idaho. This chapter was adopted under the legal authority of Sections 42-3913, 42-3914, and 42-3915, Idaho Code.

IDAPA 37.03.04 governs the regulation of geothermal resource exploration and development and ensure that such activities occur in the public interest. The Rule allows Idaho's geothermal policy, "to maximize the benefits to the entire state which may be derived from the utilization of our geothermal resources, while minimizing the detriments and costs of all kinds which could results from their utilization" is met. The Rule also requires fees for geothermal exploratory wells, production wells, injection wells, and amendments to permits, as set forth in Idaho Code Sections 42-4003 and 4011.

IDAPA 37.03.05 establishes acceptable construction standards and governs IDWR's design and technical review of mine tailing and water impoundment structures. The Rule also supports the collection of a fee to review plans, drawings, and specifications pertaining to any mine tailings impoundment structure.

IDAPA 37.03.06 establishes acceptable standards for construction of dams and establishes guidelines for safety evaluation of new or existing dams. The Rule applies to all new dams, to existing dams to be enlarged, altered or repaired, and maintenance of certain existing dams, as specifically provided in the Rule. This chapter also establishes the collection of a fee to review plans, drawings, and specifications pertaining to the construction, enlargement, alteration, or repair of small high-risk, intermediate, or large dams. This chapter was adopted pursuant to Section 42-1714, Idaho Code.

IDAPA 37.03.07 governs the permitting of stream channel alterations that are of a common type, which do not propose alterations which will be a hazard to the stream channel and its environment. This chapter also establishes the collection of stream channel alteration statutory filing fees as authorized in Idaho Code Section 42-3803.

IDAPA 37.03.08 governs appropriations from all sources of unappropriated public water in the state of Idaho under the authority of Chapter 2, Title 42, Idaho Code. Sources of public water include rivers, streams, springs,

lakes and groundwater. The rules are also applicable to the reallocation of hydropower water rights (i.e. Swan Falls Trust Water) held in trust by the state of Idaho. The Rule also implements the application, re-advertisement, and mailing fees set forth in Idaho Code Sections 42-221F and 42-203(A)3.

IDAPA 37.03.09 governs IDWR's statutory responsibility for the statewide administration of the rules governing well construction. These rules establish minimum standards for the construction of all new wells and the modification and decommissioning (abandonment) of existing wells. The intent of the Rule is to protect ground water resources of the state against waste and contamination. The Rule also implements the drilling permit fees set forth in Idaho Code Section 42-235.

IDAPA 37.03.10 establishes the requirements and procedures for obtaining and renewing authorization to drill wells in the state of Idaho. The rules also establish the requirements and procedures for obtaining authorization to operate drilling equipment under the supervision of a licensed driller. The licensing rules are applicable to all individuals and companies drilling or contracting to drill wells. The rules also implement the application licensing fees set forth in Idaho Code Section 42-238.

In summary, the fee categories described in the attached rules include: (1) administrative appeals filing fees; (2) water supply bank lease and rental fees; (3) adjudication application fees; (4) water right licensing examination fees; (5) injection well inventory and permit fees; (6) geothermal well permit fees; (7) design review fees for mine tailings impoundment structure and select dams; (8) stream channel alteration statutory filing fees; (9) water right application, re-advertisement, and mailing fees; (10) well drilling permit fees; and (11) application licensing fees for well drillers.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary and proposed rule, contact Mathew Weaver Deputy Director at (208) 287-4800.

DATED this 21st of February, 2020.

*Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720
Phone: (208) 287-4800*