

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF THE BOARD’S 2024
ZERO-BASED REGULATION NEGOTIATED
RULEMAKING OF IDAPA 37

RESOLUTION TO PUBLISH TWO IDAPA 37
CHAPTERS AS PROPOSED RULES IN THE
OCTOBER 2, 2024, IDAHO
ADMINISTRATIVE BULLETIN VOL. 24-10

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; and

3 WHEREAS, Governor Little’s Executive Order 2020-01 Zero Based Regulation (“Executive
4 Order”) directs each agency to comprehensively review all rules under its authority and “if
5 applicable” to promulgate new rules to take their place where necessary, and to conduct this
6 zero-based review (“ZBR”) over a five year period from 2021 to 2025;

7 WHEREAS, the IWRB adopted a five-year ZBR rulemaking schedule that identifies the
8 review of the following rules by the end of the fourth year, or 2024:

- 9 • IDAPA 37.03.03 *Rules and Minimum Standards for the Construction and Use of*
10 *Injection Wells*;
- 11 • IDAPA 37.03.09 *Well Construction Standards Rules*;

12 WHEREAS, the Executive Order directs any “agency wishing to renew a rule chapter
13 beyond [its ZBR] review date” to promulgate a new rule chapter after conducting a “retrospective
14 analysis” of the rule;

15 WHEREAS, the IWRB has conducted retrospective analyses of its Rules and Minimum
16 Standards for the Construction and Use of Injection Wells and Well Construction Standards Rules
17 and concluded they are all needed to carry out the IWRB’s statutory duties and responsibilities
18 fairly, efficiently, and consistently;

19 WHEREAS, the Executive Order directs agencies to “start the new rulemaking from a zero-
20 base, and not seek to simply reauthorize their existing rule chapter without a critical and
21 comprehensive review”;

22 WHEREAS, the IWRB’s notices of intent to promulgate rules for each chapter clearly
23 stated its intent to “repeal and promulgate rules” “consistent with Executive Order 2020-01:
24 Zero-Based Regulation” and where the IWRB has conformed to all ZBR processes and
25 requirements throughout the rulemaking process;

26 WHEREAS, the Executive Order directs agencies to “publish a notice of intent to
27 promulgate rules and hold, at a minimum, two public hearings that are designed to maximize
28 public participation in the rulemaking process”;

29 WHEREAS, the IWRB published notice of negotiated rulemaking for its Rules and
30 Minimum Standards for the Construction and Use of Injection Wells in Admin. Bulletin Vol. 23-4
31 and its Well Construction Standards Rules in Admin. Bulletin Vol. 24-4;

32 WHEREAS, the IWRB held two public hearings or more as part of its negotiated rulemaking
33 of the Rules and Minimum Standards for the Construction and Use of Injection Wells during the
34 spring and summer of 2023 and the spring and summer of 2024, and for the Well Construction
35 Standards Rules during the spring and summer of 2024;

36 WHEREAS, the Executive Order directs agencies to promulgate new rule chapters that
37 “reduce the overall regulatory burden, or remain neutral, as compared to the previous chapter”;

38 WHEREAS, in combination, the Rules and Minimum Standards for the Construction and
39 Use of Injection Wells Rules and Well Construction Standards Rules were reduced by more than
40 2,298 words, resulting in a combined reduction of 9.6%;

41 NOW, THEREFORE BE IT RESOLVED that the IWRB adopts the following proposed rules and
42 directs that they be adopted as submitted to the Idaho Office of Administrative Rules
43 Coordinator:


- 44 • 37.03.03, *Rules and Minimum Standards for the Construction and Use of Injection Wells;*
- 45 • 37.03.09, *Well Construction Standards Rules;*

46 NOW, THEREFORE BE IT RESOLVED that the IWRB authorizes the notice and publication
47 of the above proposed rules.

DATED this 29th day of August 2024.



JEFF RAYBOULD, Chairman
Idaho Water Resource Board

ATTEST 

Dean Stevenson, Secretary
Idaho Water Resource Board