

Zero-Based Regulation Prospective Analysis

- **Fill out entire form to the best of your ability, unless submitting a Notice to Negotiate only fill out 1, 2, 5, and 7. The rest of the form must be completed prior to the adoption of the proposed rule.**

Agency Name: Idaho Department of Water Resources ("IDWR")

Rule Docket Number: Docket No. 37-0303-2301

1. What is the specific Idaho statutory legal authority for this proposed rule?

Statute Section (include direct link)	Is the authority mandatory or discretionary?
Idaho Code §§ 42-3903, 42-3903A, 42-3905, 42-3913, 42-3914 and 42-3915	Mandatory
https://legislature.idaho.gov/statutesrules/idstat/Title42/T42CH39/	

2. Define the specific problem that the proposed rule is attempting to solve? Can the problem be addressed by non-regulatory measures?

IDWR proposes negotiated rule making for reasonable rules that may be necessary for regulation and control of the construction and use of waste disposal and injection wells. The problem the rule solves is the protection of ground water resources against unreasonable contamination or deterioration of quality to preserve such resources for existing and future diversion to beneficial uses. The negotiated rulemaking process will determine whether the Rules and Minimum Standards for the Construction and Use of Injection Wells ("Injection Well Rules") are necessary or require any modification.

The Injection Well Rules offer a set of procedures and minimum standards for the construction and use of waste disposal and injection wells while protecting ground water resources and promoting public health. The Injection Well Rules are necessary to maintain state primacy for regulation of injection wells pursuant to the federal Safe Drinking Water Act. IDWR seeks public comment on whether any non-regulatory measures can be implemented in lieu of the Injection Well Rules. IDWR proposes maintaining the Injection Well Rules with some minor modifications and updates, subject to the negotiated rulemaking process.

3. How have other jurisdictions approached the problem this proposed rule intends to address?

a. Is this proposed rule related to any existing federal law?

Federal citation	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
40 CFR 141, 144, 145, 146	<p>https://www.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-144</p> <p>Establishes minimum requirements for UIC programs and state primacy enforcement authority.</p>	The proposed Idaho rule is consistent with Federal regulations. The Idaho rule is limited to permitting of Class V injection wells only and is not more stringent than Federal Class V injection well regulations.

b. How does this proposed rule compare to other state laws?

State	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
Washington	<p>Washington’s Underground Injection Control (UIC) program, managed by the Washington State Department of Ecology, regulates Class V injection wells to protect groundwater resources. The rules require owners and operators of Class V wells to register their wells, ensure they are properly sited, constructed, and operated, and to take steps to prevent contamination of underground sources of drinking water. The program also includes monitoring and reporting requirements to ensure compliance with state and federal standards.</p> <p>For more details, visit the Washington State Department of Ecology's UIC Program.</p> <p>https://apps.leg.wa.gov/WAC/default.aspx?cite=173-218</p>	Idaho rules are consistent with all other state rules that have primacy of EPA's Class V Injection Wells.

Oregon	<p>Oregon's UIC program for Class V wells, regulated by the Department of Environmental Quality (DEQ), emphasizes the protection of underground sources of drinking water through stringent oversight of well construction, operation, and maintenance. All Class V well owners are required to register their wells and adhere to operational standards that prevent contamination. Regular monitoring and comprehensive reporting are mandatory to ensure that the environmental safety measures are met consistently across the state.</p> <p>https://oregon.public.law/statutes/ors_468b.195</p>	Idaho rules are consistent with all other state rules that have primacy of EPA's Class V Injection Wells.
Nevada	<p>Nevada's laws for Class V injection wells are designed to protect underground sources of drinking water. The state's Underground Injection Control (UIC) program, managed by the Nevada Division of Environmental Protection (NDEP), regulates these wells under the authority of the Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC). The program ensures that any non-hazardous fluids injected into these wells do not compromise water quality, particularly in this arid state where water resources are critical.</p> <p>https://www.leg.state.nv.us/NAC/NAC-445A.html#NAC445ASec810</p>	Idaho rules are consistent with all other state rules that have primacy of EPA's Class V Injection Wells.
Utah	<p>Utah's Underground Injection Control (UIC) program, governed by Rule R317-7 of the Utah Administrative Code, regulates the injection of fluids into the ground to protect underground sources of drinking water (USDWs). The rules set standards for permitting, construction, operation, and closure of injection wells, including Class V wells, which are used for a variety of non-hazardous injections. The program ensures that injection practices do not endanger USDWs by enforcing strict monitoring and compliance measures.</p> <p>https://adminrules.utah.gov/public/rule/R317-7/Current%20Rules</p>	Idaho rules are consistent with all other state rules that have primacy of EPA's Class V Injection Wells.

Wyoming	Wyoming's rules for Class V injection wells, managed by the Department of Environmental Quality, mandate comprehensive requirements for the design, construction, and operation of these wells to ensure they do not contaminate underground drinking water sources. The program requires permits, regular inspections, and detailed reporting to monitor the impact of these wells on the environment. Compliance with these regulations is strictly enforced to maintain the integrity of water resources. All Class V facilities are regulated under W.S. 35-11-301 and WQRR Chapter 27. https://wyoleg.gov/StateStatutes/StatutesConstitution?tab=0	Idaho rules are consistent with all other state rules that have primacy of EPA's Class V Injection Wells.
Montana	State does not have primacy, see EPA Link in 3.a. above	NA
Alaska	State does not have primacy, see EPA Link in 3.a. above	NA
South Dakota	State does not have primacy, see EPA Link in 3.a. above	NA

c. If the Idaho proposed rule has a more stringent requirement than the federal government or the reviewed states, describe the evidence base or unique circumstances that justifies the enhanced requirement:

Idaho is not more stringent than federal standards

4. What evidence is there that the rule, as proposed, will solve the problem?

EPA granted Idaho Primacy of the federal Underground Injection Control (UIC) Program based on our effective rule for Class V wells. This means that Idaho manages its own program for regulating these wells, ensuring compliance with federal standards to protect underground sources of drinking water.

5. What is the anticipated impact of the proposed rule on various stakeholders? Include how you will involve stakeholders in the negotiated rulemaking process?

Category	Potential Impact
Fiscal impact to the state General Fund, any dedicated fund, or federal fund	Maintaining the current rules, with proposed minor modifications, will have no impact to the state General Fund, dedicated fund, or federal fund. Application fees for permitting construction or abandonment of injection wells are nominal (\$75-\$100 per application) and are controlled by statute rather than rule. IDWR generally receives about 95 deep injection well applications or renewals per year, and receives about 355 shallow well inventory forms per year.

Impact to Idaho businesses, with special consideration for small businesses	Maintaining the current rules, with proposed minor modifications, should not impact Idaho businesses, including small businesses. No changes are proposed to permit fees. In Idaho, excess storm water, agricultural water, and facility heating/cooling water are the most common fluids disposed of with injection wells of various design, including standard cased well, drain fields, and infiltration trenches. Construction and decommissioning of deep injection wells must be performed by an Idaho licensed well driller. Most shallow injection wells are constructed and owned by state and local government entities involved in highway and street construction and maintenance.
Impact to any local government in Idaho	Maintaining the current rules, with proposed minor modifications, will have no impact on IDWR or any local government in Idaho. Most shallow injection wells are constructed and owned by state and local government entities involved in highway and street construction and maintenance, and are exempt from shallow well inventory form filing fees. IDWR does not propose changing this exemption.

6. What cumulative regulatory volume does this proposed rule add?

Category	Impact
Net change in word count	Proposed rule reduces word count from 10,511 to 8,990 words. This corresponds to a net change of -1,521 words or -14.5%.
Net change in restrictive word count	Proposed rule reduces total restrictive word count from 125 to 115 words. This corresponds to a net change of -10 words or -8.0%.

7. Should this rule chapter remain as a rule chapter or be moved to statute as suggested in Section 67-5292, Idaho Code?

Category	Impact
What is the cost of publishing this rule chapter annually? (Multiply the number of pages x \$56)	This 20 page rule would cost approximately \$1,120, annually.
How frequently has this rule chapter been substantively updated over the past 5 years? (Exclude republishing triggered solely by recent sunset dates)	Once
What is the benefit of having all related requirements in a single location in Idaho Code?	Idaho Code § 42-3913 requires the Idaho Water Resource Board to adopt rules establishing minimum standards for the construction or abandonment of deep injection wells to protect groundwater from waste and unreasonable contamination.