

**From:** [Will Tiedemann](#)  
**To:** [Boe, Erik](#); [RulesInfo](#)  
**Subject:** Comments RE 37.03.03 – RULES AND MINIMUM STANDARDS FOR THE CONSTRUCTION AND USE OF INJECTION WELLS  
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Hi Erik,

Apologies for the somewhat disorganized and informal comments. It's been a busy couple of weeks for me with lots of travel. Below I've provided specific bullet points for consideration, but overall I would characterize many of my concerns/comments as related to regulatory "alignment". To be fair, between Idaho Statute 42-39, IDAPA 58.01.08 and IDAPA 58.01.11 there are lots of requirements to "align", but as written, Strawman Rev 5 contains what I see as quite a few contradictions. Concepts like "Contamination" vs "Unreasonable Contamination" vs "Endangerment" and groundwater vs USDW are applied unequally within Rev5. Ultimately, I think one has to ask what do Idaho Statute 42-39, IDAPA 58.01.08 and IDAPA 58.01.11 all require, where is there overlap, and how do you write one UIC rule that complies with all three? Hopefully my comments below help answer that question.

- Subsection 010.04 Aquifer: The definition of "aquifer" doesn't match Idaho Statute 42-3902(1). Statute says "will yield water". Strawman Rev 5 says "that yields water"
- Subsection 010.14 Contamination: I know Idaho Statute 42-39 talks broadly about the prevention of contamination, but "Contamination" is also never defined in 39-42. So, it's not unreasonable to include a definition here in rule, but it isn't in alignment with "Endangerment". See comments below, but "Contamination" covers "natural ground water" while "Engagement" only covers USDWs.
- Subsection 010.27 Endangerment: Why does this definition only include current or possible USDWs. Idaho Statute 42-3901 gives broad protection to all groundwater not just USDW: "The legislature of the state of Idaho hereby declares the **ground water (emphasis added)** of this state to be a public resource which must be protected against unreasonable contamination or deterioration of quality to preserve such waters for diversion to beneficial uses; Furthermore, what is the purpose of this definition in the rule? "Engagement" is not used anywhere in Idaho Statute 42-39, IDAPA 58.01.08 or IDAPA 58.01.11. Is it a Safe Drinking Water Act concept?
- Subsection 010.29 Hazardous Waste: IDAPA 58.01.05 does not currently define "Hazardous Waste". Furthermore, Idaho Statute 42-3902(7) defines "Hazardous Waste" and could create a potential conflict.
- Subsection 010.55 Unreasonable Contamination: This definition creates confusion compared to "Contamination". As currently defined, "Unreasonable Contamination" is more akin to deterioration. Idaho Statute 42-3901 provides for the protection against "unreasonable contamination" but also "deterioration". The way I would think about it: Unreasonable Contamination = violation of IDAPA 58.01.08 or 58.01.11 and "Deterioration" = the current definition of unreasonable contamination. Along these lines "endangerment" could = the possibility of deterioration, but I don't

know it needs to be defined (instead say "deterioration potential" ) Said another way you aren't unreasonably contaminating an aquifer till you violate a standard (either 58.01.08 or 58.01.11). Before that point you are deteriorating groundwater quality if your injectate concentration exceeds background levels.

- Subsection 025.02.b: The first part of this clause is pretty explicit in drawing a hard requirement that no UIC action can violate a IDAPA 58.01.08 or 58.01.11 standard, but the second part ("The applicant for a permit has the burden of showing that the injection of any fluid does not present an imminent and substantial endangerment to the health of persons") significantly muddles this. For one, it adds qualifying words ("imminent" and "substantial") which aren't included in the definition of "Endangerment" or anywhere else. Second, the inclusion of "health of person" is qualitative where IDAPA 58.01.08 and 58.01.11 are quantitative limits further adding confusion and discrepancies. I would suggest the following language instead, "The applicant for a permit has the burden of showing that any injection activity will comply with IDAPA 58.01.08 and 58.01.11 as well as quantifying the deterioration potential of any injection activity (with "deterioration" being defined as the current "unreasonable contamination" definition).
- Subsection 025.02.c: Similar to above comments the inclusion of USDWs only and use of "endangerment" creates confusion and misalignment with Idaho Statute and other provisions of the UIC rules.
- Subsection 025.03.a.iii: Here an exemption for needing a permit for shallow injection well is given if it won't result in "unreasonable contamination" which equals a violations of IDAPA 58.01.08 and 58.01.11, but back under subsection 025.02.c we see the need to show that injection activities would cause endangerment which equals groundwater quality deterioration or the threat of it. So this exemption contradicts this need to show endangerment won't occur. This also contradicts language in subsection 035.02.
- Subsection 055.03: Similar to above comments, why are only USDWs covered here as opposed to all groundwater (to which the groundwater quality standards apply to).
- Subsection 055.06.a: Contains no protection against deteriorating existing background concentrations. This is in contradiction to Subsection 055.06.b that does. Idaho Statute 42-3901 would seem to provide for protection against deterioration. In short, 055.06.a should mirror 055.06.b.
- Subsection 055.06.b: Again why the inclusion of the phrase "is likely to reach a USDW" when groundwater protections and 42-39 apply to all groundwater.

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