



IDAHO
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LEAGUE

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May 11, 2023

IDWR Rules Review Officer
PO Box 83720
Boise, ID 83720
rulesinfo@idwr.idaho.gov

RE: DOCKET NO. 37-0303-2301, IDAPA 37.03.03 UIC

Dear IDWR:

I am writing on behalf of the Idaho Conservation League (ICL) to submit comments on the negotiated ZBR rulemaking for DOCKET NO. 37-0303-2301, IDAPA 37.03.03 UIC (the Rules) . Since 1973, the Idaho Conservation League has had a long history of involvement with water quality issues. As Idaho's largest state-based conservation organization we represent over 25,000 members and supporters who have a deep personal interest in ensuring that our water quality is protected throughout the state.

We thank you for the opportunity to submit comments and ask that you please send us any response to public comments on this opportunity from the IDWR. Please feel free to contact us if you have any questions or require additional information.

Sincerely,

Will Tiedemann
Conservation Associate
Idaho Conservation League
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208.286.444

IDAPA 37.03.03.010 Definitions

Under the current Strawman REV1, the Rules propose to modify the definition of “contamination” to remove the statement, “Contamination includes the introduction of heated or cooled water into the subsurface that will alter the ground water temperature and render the local ground water less suitable for beneficial use.” During the public meeting on April 27, 2023 IDWR staff stated this change was being conducted to reduce word count and that heat/temperature is already generally considered a contaminate and thus this clarification was unnecessary. We would like to note that this conclusion appears in doubt. The governing Idaho Code for these Rules (Title 42 Chapter 39) does not define the word “contamination” or “contaminant”. IDAPA 58.01.11 Ground Water Quality Rule defines a contaminant as, “Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration”. IDAPA 58.01.11 does not include any numerical standard for heat or temperature but does include narrative standards under the following definition, “Contaminant concentrations, alone or in combination with other contaminants or properties, shall not cause the ground water to be hazardous, deleterious, carcinogenic, mutagenic, teratogenic, or toxic.”

Given these facts, it appears that at some point in the development of the IDAPA 37.03.03 Rules, heat/temperature were deliberately included as contaminants for underground injection wells. **We ask that IDWR retain the language proposed for removal, unless a legal analysis can be provided that clarifies the nature and intent of heat/temperature as a ground water contaminant otherwise.**

IDAPA 37.03.03.50.03(c)(ii)(6)

Under the current Strawman REV1, section 50.03(c)(ii)(6) states, “At no time shall any fluid containing or suspected of containing fecal contaminants of human origin be injected into any Class V injection well authorized under these rules.” During the public meeting on April 27, 2023, it was discussed that it is generally understood that this definition does not include treated sanitary wastes. However, no other part of the Rule or Idaho Code Title 42 Chapter 39, affirms or clarifies this assumption. While typical wastewater treatment systems reduce the concentration of fecal contaminants (such as *e. Coli*) within sanitary wastewater, they are generally not able to completely remove them. Accordingly, many IPDES permits covering wastewater treatment plants contain limits for *e. Coli*. Currently, we are unaware if there are any facilities in Idaho permitted to inject treated sanitary waste of the nature that would contain fecal contaminants. **We ask that IDWR undertake a regulatory/legal review of this section of the Rules to determine the ultimate legality of injecting treated/untreated fecal contaminants and update the proposed language as necessary.**