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. 37-0309-2401

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 §§ 42-238(12) and 42-235	Mandatory
https://legislature.idaho.gov/statutesrules/idstat/Title42/T42CH2/	

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 to maintain minimum standards for new construction, modification and decommissioning of cold water wells, low temperature geothermal wells, and geothermal wells in Idaho. The problem the rule solves is the protection of Idaho ground water resources from waste and contamination through minimum well construction standards. The negotiated rule making process will determine whether the Well Construction Standards Rules ("Well Construction Rules") are necessary or require any modification.

The Well Construction Rules offer a set of minimum construction standards for the construction of all new wells and the modification and decommissioning of existing wells. The intent of the Rule is to protect the public health, safety, welfare and environment, and to prevent the waste of water or mixture of water from different aquifers. The Rule also implements the drilling permit fees set forth in Idaho Code § 42-235.

IDWR proposes maintaining the Well Construction Standards Rules with some 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? No**

Federal citation	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
NA	NA	NA

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	In Washington, well construction rules are designed to protect groundwater resources and public health by ensuring wells are properly sited, constructed, and maintained. These rules cover various aspects such as well location, casing, sealing, and testing to prevent contamination and ensure water quality. Contractors must be licensed, and wells must meet specific standards set by the Washington State Department of Ecology. For detailed information, you can access the administrative rules for well construction at: https://apps.leg.wa.gov/WAC/default.aspx?cite=173-160.	Both states set detailed requirements for well casing, sealing, and location to protect groundwater, but the specific standards, like minimum sealing depth or casing materials, vary based on local geological and environmental conditions. These differences are tailored to address each state's unique groundwater protection challenges.

Oregon	In Oregon, well construction rules are established to ensure the protection of groundwater resources and public health by setting standards for well location, design, construction, and maintenance. These regulations require licensed professionals to adhere to strict guidelines for well casing, sealing, and testing to prevent contamination and ensure the safety of drinking water. The Oregon Water Resources Department oversees these regulations, ensuring compliance and proper documentation for all well constructions. For detailed information, you can access the administrative rules for well construction at: https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3184	Both states set detailed requirements for well casing, sealing, and location to protect groundwater, but the specific standards, like minimum sealing depth or casing materials, vary based on local geological and environmental conditions. These differences are tailored to address each state's unique groundwater protection challenges.
Nevada	In Nevada, well construction rules are designed to protect groundwater by ensuring wells are constructed, maintained, and abandoned in a way that prevents contamination and preserves water quality. These regulations include standards for well location, casing, sealing, and testing, and they require that only licensed professionals carry out well construction. The Nevada Division of Water Resources is responsible for enforcing these rules to ensure compliance and safeguard public health. For detailed information, you can access the administrative rules regulating well construction standards at: https://www.leg.state.nv.us/NAC/NAC-534.html	Both states set detailed requirements for well casing, sealing, and location to protect groundwater, but the specific standards, like minimum sealing depth or casing materials, vary based on local geological and environmental conditions. These differences are tailored to address each state's unique groundwater protection challenges.
Utah	In Utah, well construction rules are implemented to protect groundwater by ensuring that wells are properly sited, constructed, and maintained according to state standards. These regulations cover requirements for well drilling, casing, sealing, and the use of licensed professionals to prevent contamination and protect water quality. The Utah Division of Water Rights enforces these rules to ensure that all well construction meets the necessary safety and environmental standards. For detailed information, you can access the administrative rules regulating well construction standards at: https://rules.utah.gov/publicat/code/r655/r655-004.htm	Both states set detailed requirements for well casing, sealing, and location to protect groundwater, but the specific standards, like minimum sealing depth or casing materials, vary based on local geological and environmental conditions. These differences are tailored to address each state's unique groundwater protection challenges.

Wyoming	In Wyoming, well construction rules are established to protect groundwater resources by ensuring wells are drilled, constructed, and maintained to prevent contamination and ensure water quality. These regulations set standards for well location, casing, sealing, and abandonment, requiring the work to be performed by licensed professionals. The Wyoming State Engineer's Office enforces these rules to safeguard public health and the environment. For detailed information, you can access the administrative rules regulating well construction standards at: https://seo.wyo.gov/ground-water/water-well-construction	Both states set detailed requirements for well casing, sealing, and location to protect groundwater, but the specific standards, like minimum sealing depth or casing materials, vary based on local geological and environmental conditions. These differences are tailored to address each state's unique groundwater protection challenges.
Montana	In Montana, well construction rules are designed to protect groundwater quality by ensuring that wells are properly constructed, located, and maintained to prevent contamination. The regulations include detailed requirements for well casing, sealing, and the involvement of licensed contractors to ensure safe drinking water. The Montana Department of Natural Resources and Conservation oversees these rules to ensure compliance and protect public health. For detailed information, you can access the administrative rules regulating well construction standards at: https://rules.mt.gov/browse/collections/aec52c46-128e-4279-9068-8af5d5432d74/sections/71b22562-3e9f-47e8-8ffd-3a2f9a766a6b	Both states set detailed requirements for well casing, sealing, and location to protect groundwater, but the specific standards, like minimum sealing depth or casing materials, vary based on local geological and environmental conditions. These differences are tailored to address each state's unique groundwater protection challenges.

Alaska	In Alaska, well construction rules are designed to protect groundwater and public health by ensuring that wells are properly constructed, located, and maintained to prevent contamination. These regulations specify requirements for well drilling, casing, and sealing, and mandate that only licensed professionals perform the work. The Alaska Department of Environmental Conservation oversees these rules to ensure compliance and the safety of drinking water supplies. The state regulations for water well construction in Alaska are primarily found in the Alaska Administrative Code (AAC) and are enforced by the Alaska Department of Natural Resources (DNR) and the Alaska Department of Environmental Conservation (DEC). Specifically: 1. Alaska Administrative Code (AAC), Title 11, Chapter 93 - This chapter includes regulations related to water rights, which encompass the permitting requirements for water well construction. 2. Alaska Administrative Code (AAC), Title 18, Chapter 80 - This chapter includes regulations related to drinking water, including requirements for the construction and maintenance of wells to ensure they do not contaminate drinking water supplies. For more detailed information, you can access these regulations through the following links: • 11 AAC 93 (Water Rights): https://www.akleg.gov/basis/aac.asp#11.93 • 18 AAC 80 (Drinking Water): https://www.akleg.gov/basis/aac.asp#18.80	Both states set detailed requirements for well casing, sealing, and location to protect groundwater, but the specific standards, like minimum sealing depth or casing materials, vary based on local geological and environmental conditions. These differences are tailored to address each state's unique groundwater protection challenges.
South Dakota	In South Dakota, well construction rules are designed to protect groundwater by ensuring that wells are properly sited, constructed, and maintained to prevent contamination. These regulations require that wells be drilled, cased, and sealed according to specific standards, and that only licensed professionals perform the work. The South Dakota Department of Environment and Natural Resources (DENR) oversees these regulations to ensure compliance and safeguard public health. For detailed information, you can access the administrative rules regulating well construction at: https://sdlegislature.gov/Rules/Administrative/74:02:04	Both states set detailed requirements for well casing, sealing, and location to protect groundwater, but the specific standards, like minimum sealing depth or casing materials, vary based on local geological and environmental conditions. These differences are tailored to address each state's unique groundwater protection challenges.

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:**

No federal well construction standards for water wells, they are regulated at the state level.

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

Industry well construction standards, created by organizations like the American Water Works Association (AWWA) and the National Ground Water Association (NGWA), provide essential science-based guidelines for the safe and effective construction of wells. These standards are crucial for protecting groundwater resources, ensuring well longevity, and safeguarding public health. Idaho's well construction rules were developed using the expertise of drillers, hydrologists, and engineers, drawing heavily on the industry standards recommended by AWWA and NGWA.

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 some proposed modifications will have no impact to the state General Fund, dedicated fund, or federal fund. Application fees for permitting construction or abandonment of wells are nominal ($75 for domestic or monitoring purposes and $200 for all other purposes); permit fees are controlled by statute rather than rule. IDWR generally receives about 3,000 to 5,000 well applications per year. About 85% to 90% of all applications are for construction of new domestic wells.
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. Construction of new wells and decommissioning of existing wells must be performed by an Idaho licensed well driller. Proposed rule modifications may clarify rules and standards for improved application of rules and ability to address certain well construction problems. IDWR does not anticipate rule modifications that will increase well construction costs.
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. Cities, counties or other local government entities typically construct wells that exceed minimum construction standards under these rules.

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

Category	Impact

Net change in word count	Proposed rule reduces word count from 13,355 to 12,578 words. This corresponds to a net change of -777 words or -5.8%.
Net change in restrictive word count	Proposed rule reduces total restrictive word count from 234 to 210 words. This corresponds to a net change of -24 words or -10.3%.

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 37 page rule would cost approximately $2,072, 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?	Well Construction Rules add necessary clarification to statutes captured in Chapter 2, Title 42, Idaho Code, and establishes minimum standards for the construction of all new wells and the modification and decommissioning (abandonment) of existing wells.