

**IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES
IDAHO WATER RESOURCE BOARD**

**37.03.07 - STREAM CHANNEL ALTERATION RULES OF THE
IDAHO DEPARTMENT OF WATER RESOURCES**

DOCKET NO. 37-0307-2104

**NOTICE OF INTENT TO PROMULGATE RULES –
ZERO-BASED REGULATION NEGOTIATED RULEMAKING**

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that the Idaho Department of Water Resources and the Idaho Water Resource Board (“Agencies”) intend to repeal and promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section(s) 42-1734(19), 42-1805(8), and 42-3803(c), Idaho Code. This action is consistent with Executive Order 2020-01: Zero-Based Regulation, which directs agencies to review all administrative rules over the five-year period of 2021-2025 (completing review no later than sine die 2026).

MEETING SCHEDULE: A negotiated rulemaking meeting has been scheduled. Any additional meeting dates will be posted on the Agencies’ website at <https://idwr.idaho.gov/>.

PUBLIC MEETING Tuesday, April 27, 2021 @ 2:00 p.m. (Mountain Time)
In Person: Idaho Dept. of Water Resources 322 E Front St. Boise, ID 83720-0098 (Meeting to be held at IDWR Office Conference Rooms B, C & D, located on the 6th Floor of the University of Idaho Water Center)
<i>To sign up for attendance via telephone/videoconference,</i> <i>Contact Kimberle English at 208-287-4815 or Kimberle.english@idwr.idaho.gov by April 21, 2021</i>
Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency web site at the following web address: https://idwr.idaho.gov/.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process must either attend the above-scheduled meeting or identify themselves to the Agencies using the phone number and email address listed above in advance of the above-scheduled meeting. Upon conclusion of negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the Agencies or, if the Agencies choose, the summary may be posted on the Agencies’ website listed above.

Should a reasonable number of persons respond to this notice, additional negotiated meetings may be scheduled and all scheduled meetings shall be posted and made accessible on the Agencies’ website listed in this notice.

A lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency has sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rulemaking will review the Agencies' Stream Channel Alteration Rules, IDAPA 37.03.07, specifically Rule 61.01 and .03, consistent with Executive Order 2020-01. These subsections define minimum standards to permit suction dredge mining activities on rivers and streams in Idaho. Suction dredge operations meeting these minimum standards are not subject to more stringent permit requirements described by Idaho law. The Agencies have reviewed these subsections pursuant to the zero-based regulation process and are considering the re-promulgation of this chapter with some substantive and procedural modifications.

The Agencies have identified the following areas as potential changes from the existing Rule 61 subsections:

- Remove the subsection rules contingent on whether any non-regulatory measures can be implemented in lieu of the rules;
- Modify the subsection rules to accommodate suction dredge mining practices or standards that are new or different from the current rule standards;
- Simplify, condense, and modernize rule language; or
- Consider whether certain portions of the Idaho Department of Lands' Rules for Riverbed Mineral Leasing in Idaho (IDAPA 20.03.05) should be incorporated into Rule 61.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS OR OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, or to obtain a preliminary draft copy of the rule text, contact Mathew Weaver, IDWR Deputy Director at (208) 287-4800.

DATED this 5th day of March, 2021.

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