

Dear Senators VICK, Heider, Stennett, and  
Representatives GIBBS, Lickley, Rubel:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Idaho Department of Water Resources:

IDAPA 37.03.06 - Safety of Dams Rules (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket  
No. 37-0306-2201);

IDAPA 37.03.10 - Well Driller Licensing Rules (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule  
(Docket No. 37-0310-2201).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 11/18/2022. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/16/2022.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the  
memorandum attached below.



**Terri Kondeff**  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Resources & Conservation Committee

**FROM:** Deputy Division Manager - Katharine Gerrity

**DATE:** November 01, 2022

**SUBJECT:** Idaho Department of Water Resources

IDAPA 37.03.06 - Safety of Dams Rules (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 37-0306-2201)

IDAPA 37.03.10 - Well Driller Licensing Rules (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 37-0310-2201)

#### **1. IDAPA 37.03.06 - Safety of Dams Rules**

##### **Summary and Stated Reasons for the Rule**

The Idaho Department of Water Resources submits notice of proposed rule at IDAPA 37.03.06 - Safety of Dams Rules. This is a chapter rewrite and a fee rule. According to the department, the rulemaking is based on the Governor's Executive Order of January 2020 requiring 5-year rule reviews. The department states that this rule is approximately 12% shorter than the current rule. The department notes that changes to the rule come through a combination of removal of obsolete provisions, removal of unnecessary provisions, reconciling inconsistencies between current statutory requirements and outdated requirements in the old rule concerning the inspection intervals of some dams, and modifications to existing rules governing the size limits, hazard categories, and design requirements for various dams. The department states that the rule establishes acceptable standards for construction of dams and establishes guidelines for safety evaluation of new or existing dams. According to the department, the rule applies to all new dams, to existing dams to be enlarged, altered or repaired, and maintenance of certain existing dams and also establishes the collection of a fee to review plans, drawings, and specifications pertaining to the construction, enlargement, alteration, or repair of small high-risk, intermediate, or large dams.

##### **Negotiated Rulemaking / Fiscal Impact**

Negotiated rulemaking was conducted. There is no fiscal impact anticipated as a result of the rulemaking.

##### **Statutory Authority**

The rulemaking appears to be authorized pursuant to Sections 42-1710 and 42-1714, Idaho Code.

Paul Headlee, Deputy Director    Kristin Ford, Manager    Keith Bybee, Manager    April Renfro, Manager    Glenn Harris, Manager  
Legislative Services Office    Research & Legislation    Budget & Policy Analysis    Legislative Audits    Information Technology

Statehouse, P.O. Box 83720  
Boise, Idaho 83720-0054

Tel: 208-334-2475  
legislature.idaho.gov

## **2. IDAPA 37.03.10 - Well Driller Licensing Rules**

### **Summary and Stated Reasons for the Rule**

The Idaho Department of Water Resources submits notice of proposed rule at IDAPA 37.03.10 - Well Driller Licensing Rules. This is a chapter rewrite and a fee rule. According to the department, the rulemaking is based on the Governor's Executive Order of January 2020 requiring 5-year rule reviews. The department states that the new chapter is approximately 30% shorter than the existing well driller licensing rule chapter and that changes to the rule come through a combination of removal of obsolete provisions, removal of unnecessary provisions, and modifications to existing rules governing the experience requirements to obtain a well drilling license. The department states that the rule establishes the requirements and procedures for obtaining and renewing authorization to drill wells in the state of Idaho and establish the requirements and procedures for obtaining authorization to operate drilling equipment under the supervision of a licensed driller. The department adds that the licensing rules are applicable to all individuals and companies drilling or contracting to drill wells and implement the application licensing fees set forth in statute.

### **Negotiated Rulemaking / Fiscal Impact**

Negotiated rulemaking was conducted. There is no fiscal impact anticipated as a result of the rulemaking.

### **Statutory Authority**

The rulemaking appears to be authorized pursuant to Sections 42-238, 42-1734, and 42-1805, Idaho Code.

cc: Idaho Department of Water Resources  
Megan Jenkins

### **\*\*\* PLEASE NOTE \*\*\***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

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

**37.03.06 – SAFETY OF DAMS RULES**

**DOCKET NO. 37-0306-2201 (ZBR CHAPTER REWRITE, FEE RULE)**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized pursuant to §§ 42-1710 and 42-1714, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rule.

The Idaho Department of Water Resources (IDWR) and the Idaho Water Resource Board (IWRB) (the “Agencies”) initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(ZBR\)](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, must be reviewed by the promulgating agency over a five-year period. This review is being conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at [https://adminrules.idaho.gov/forms\\_menu.html](https://adminrules.idaho.gov/forms_menu.html). This rule chapter was scheduled for review in 2022.

With this Notice, the Agencies propose a new chapter of safety of dams rules. The new chapter is approximately 12% shorter than the existing safety of dams rule chapter due to both internal agency analysis and external stakeholder negotiation, commentary, and editing. Changes to the rule come through a combination of (a) removal of obsolete provisions (such as removal of unique design requirements for small dams), (b) removal of unnecessary provisions (such as the definition and use of the term “active storage” and “water storage elevation”), (c) reconciling inconsistencies between current statutory requirements and outdated requirements in the old rule concerning the inspection intervals of some dams, and (d) modifications to existing rules governing the size limits, hazard categories, and design requirements for various dams.

Pursuant to the ZBR process, this Notice represents the promulgation of a new rule chapter. As a result, the proposed rule does not contain strike-out/underline text in legislative format. The old rule has been repealed and replaced in its entirety. However, the development of the proposed rule text through two publicly-released preliminary rule draft iterations may be viewed at: <https://idwr.idaho.gov/legal-actions/rules/idwr-rulemaking-2022-2023/>. At the same website, the Agencies also developed and published rulemaking support documents, which provide the Agencies’ recommendations on rulemaking, rulemaking analysis, and responses to substantive comments received through the negotiated rulemaking process.

Citizens of the state of Idaho, water users, governmental agencies, and environmental groups may be interested in commenting on the proposed rule text. After consideration of public comments received in response to this Proposed Rule, the Agencies will present the final rule text to the Idaho Legislature in the late fall of 2022.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed:

IDAPA 37.03.06 establishes acceptable standards for construction of dams and establishes guidelines for safety evaluation of new or existing dams. The Rule applies to all new dams, to existing dams to be enlarged, altered or repaired, and maintenance of certain existing dams, as specifically provided in the Rule. This chapter also establishes the collection of a fee to review plans, drawings, and specifications pertaining to the construction, enlargement, alteration, or repair of small high-risk, intermediate, or large dams.

**FISCAL IMPACT STATEMENT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A.

**NEGOTIATED RULEMAKING:** Pursuant to § 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, [Vol. 22-5, page 86-87](#).

**INCORPORATION BY REFERENCE:** Pursuant to § 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: N/A.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this proposed rulemaking, contact Mathew Weaver at [mathew.weaver@idwr.idaho.gov](mailto:mathew.weaver@idwr.idaho.gov), (208) 287-4800.

Anyone can submit written comments regarding this proposed rule by mail to the address below or by email sent to [rulesinfo@idwr.idaho.gov](mailto:rulesinfo@idwr.idaho.gov). The Department will consider all written comments received by the undersigned on or before October 26, 2022.

Dated this 2nd day of September, 2022.

Gary Spackman, Director  
Idaho Department of Water Resources  
322 E. Front Street  
PO Box 83720  
Boise, ID 83720-0098  
Phone: (208) 287-4800

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 37-0306-2201**  
**(Zero Based Regulation (ZBR) Chapter Rewrite)**

**37.03.06 – SAFETY OF DAMS RULES**

**000. LEGAL AUTHORITY.**

These rules are adopted pursuant to Chapter 17, Section 42-1714, Idaho Code. ( )

**001. SCOPE.**

These rules establish acceptable standards for design and construction, and guidelines for evaluating the safety of new or existing dams. The rules apply to all new construction including existing structures considered for enlargement, alteration, modification, or repair as specifically provided in the rules. The Director will evaluate any deviation from the standards hereinafter stated as they pertain to the safety of any given dam. The standards listed herein are not intended to restrict the application of other sound engineering design principles that will provide for the public safety. Under no circumstances shall these rules be construed to deprive or limit the Director of any exercise of powers, duties and jurisdiction conferred by law, nor to limit or restrict the amount or character of data, or information which may be required by the Director from any owner of a dam or for the proper administration of the law. ( )

**002. ADMINISTRATIVE APPEALS.**

Any person aggrieved by an action of the Director and who has not previously been afforded an opportunity for a hearing on the matter is entitled to a hearing before the Director to contest the action pursuant to the provisions of Section 42-1701A(3), Idaho Code, and the Department’s adopted Rules of Procedure. ( )

**003. – 009. (RESERVED)**

**010. DEFINITIONS.**

Unless the context otherwise requires, the following definitions govern these rules. ( )

**01. Alterations or Repairs.** Any activity that may affect the safety or integrity of a dam. Alterations and repairs do not include routine maintenance items. ( )

**02. Appurtenant Structures.** Ancillary features (e.g., outlets, tunnels, gates, valves, spillways, auxiliary barriers, etc.) used for operation of a dam, which are owned or for which the owner has responsible control. ( )

**03. Artificial Barrier or Embankment.** Any structure constructed to impede, obstruct, or store water. ( )

**04. Borrowed Fill Embankment.** Any embankment constructed of borrowed earth materials, and which is designed for construction by conventional earth moving equipment. ( )

**05. Certificate of Approval.** A certificate issued by the Director for all existing dams listing restrictions imposed by the Director, and without which none shall be allowed to impound water. ( )

**06. Conduit.** A pipe or other constructed conveyance within a dam designed to release water or liquid in the reservoir. ( )

**07. Core.** A zone of relatively low permeability material within an embankment. ( )

**08. Cutoff Trench.** An excavation later to be filled with impervious material during construction of a dam to limit seepage beneath the structure and through the foundation. ( )

**09. Dam.** Any artificial barrier together with appurtenant works, which is or will be ten (10) feet or more in height and has or will have an impounding capacity at maximum storage elevation of fifty (50) acre-feet or more. Height of a dam is defined as the vertical distance from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Director, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream channel or watercourse, to the maximum water storage elevation. Under Section 42-1711, Idaho Code, the following are not included as regulated dams or are not considered dams for the purposes of Sections 42-1710 through 42-1721, Idaho Code: ( )

**a.** Barriers in a canal used to raise or lower water therein or divert water therefrom. ( )

**b.** Fills or structures determined by the Director to be designed primarily for highway or railroad traffic. ( )

**c.** Fills, retaining dikes or structures less than twenty (20) feet in height, which are under jurisdiction of the Department of Environmental Quality or the Department of Agriculture, determined by the Director to be designed primarily for retention or treatment of municipal, livestock, or domestic wastes, or sediment and wastes from produce washing or food processing plants. ( )

**d.** Levees, that store water regardless of storage capacity. ( )

**10. Days.** Calendar days including Sundays, Saturdays, and holidays. ( )

**11. Department.** The Idaho Department of Water Resources. ( )

**12. Design Evaluation.** The engineering analysis required to evaluate the performance of a dam relative to earthquakes, floods, or other site-specific conditions anticipated to affect the safety or operation of the dam, or appurtenant facilities. ( )

13. **Director.** The Director of the Department of Water Resources. ( )
14. **Embankment.** An artificial barrier constructed of earth, sand, rock, or gravel used to impound water. ( )
15. **Emergency Action Plan (EAP).** A written plan with instructions to be taken to reduce the potential for property damage and loss of life in an area affected by a dam failure or uncontrolled release of stored contents. ( )
16. **Enlargement.** Any change in or addition to an existing dam which raises or may raise the elevation of the contents impounded by the dam. ( )
17. **Factor of Safety.** A ratio of available shear strength to shear stress, required for stability. ( )
18. **Flashboards.** Structural members of timber, concrete, steel, or other erosion resistant material placed across a channel or entrance to a spillway to temporarily raise the surface level of the reservoir. ( )
19. **Flood.** An increase in water surface elevation due to naturally occurring runoff or other rise in water levels that result in the inundation of areas not normally covered by water. As defined herein floods may be expressed in terms of average annual probability of exceedance, corresponding to values which may be described as flow rate, volume, or elevation (i.e., stage). ( )
20. **Flood Surcharge.** A variable volume of water temporarily detained in a reservoir, in the space (or part thereof) that is filled by excess runoff or flood water, above the approved design maximum storage elevation. Flood surcharge is passed through the reservoir and discharged downstream until the reservoir level has been drawn down to the design maximum storage elevation. ( )
21. **Freeboard.** Vertical height between the maximum design water surface elevation and the lowest elevation along the top of the dam. Freeboard can include a provision for variables such as wave height, flood surcharge, settlement, and flashboards. ( )
22. **Hazard.** The potential consequences to downstream life and property resulting from a dam failure and uncontrolled release of water, exclusive of the size or the physical condition of the dam. Hazard Classifications shall be assigned to new and existing dams based on the severity of failure consequences to life and property. ( )
23. **Hydraulics.** The conveyance of liquid through pipes and channels. ( )
24. **Hydrology.** The study of precipitation, snowmelt, and runoff in relation to land surfaces. ( )
25. **Inflow Design Flood (IDF).** The flood specified for designing a dam, or appurtenant facility. Commonly expressed inflow design flood(s) include peak rate(s) of flow and volume(s) associated with floods having an annual exceedance probability of one percent (1%) (i.e., Q100) and zero point two percent (0.2%) (i.e., Q500), and the PMF (probable maximum flood). ( )
26. **Intermediate Dams.** Artificial barriers twenty (20) feet or more in height but less than forty (40) feet and capable of storing one hundred (100) acre-feet of water or more but less than four thousand (4,000) acre-feet. ( )
27. **Large Dams.** Artificial barriers forty (40) feet or more in height or capable of storing four thousand (4,000) acre-feet or more of water. ( )
28. **Levee.** A retaining structure alongside a natural lake which has a length two hundred (200) times greater than its greatest height measured from the lowest elevation of the toe to the maximum crest elevation of the retaining structure. ( )
29. **Lift Construction.** Embankment enlargement by raising the elevation of the structure on a continuous or recurring basis. Such practice will be considered under construction until the structure reaches its final

crest elevation. ( )

**30. Maximum Water Storage Elevation.** The maximum design elevation of the water surface or stored contents which can be impounded by the dam. ( )

**31. Operation Plan.** A specific plan that promotes the safe operation of the dam for its intended purpose, and which provides specific limits and procedures for controlling inflow, storage, and/or release of water or slurry. ( )

**32. Owner.** Includes any of the following who own, control, operate, maintain, manage, or propose to construct a dam, or reservoir: ( )

**a.** The state of Idaho and its departments, agencies, institutions, and political subdivisions; ( )

**b.** The United States of America and any of its departments, bureaus, agencies and institutions; provided that the United States of America shall not be required to pay any of the fees required by Section 42-1713, Idaho Code, and shall submit plans, drawings and specifications as required by Section 42-1712, Idaho Code, for information purposes only; ( )

**c.** Every municipal or quasi-municipal corporation; ( )

**d.** Every public utility; ( )

**e.** Every person, firm, association, organization, partnership, business trust, corporation, or company; ( )

**f.** The duly authorized agents, lessees, or trustees of any of the foregoing; or ( )

**g.** Receivers or trustees appointed by any court for any of the foregoing. ( )

**33. Professional Engineer.** A person licensed as a professional engineer by the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors under chapter 12, title 54, Idaho Code. For the purposes of this rule, the use of the term engineer implies a professional engineer consistent with this definition. ( )

**34. Release Capacity.** The ability of a dam to pass excess water through the spillway(s) and outlet works. ( )

**35. Reservoir.** Any basin which contains or will contain the water impounded by a dam. ( )

**36. Small Dams.** Artificial barriers ten (10) feet or more in height but less than twenty (20) feet in height and that store fifty (50) acre-feet or more but less than one hundred (100) acre-feet of water. ( )

**37. Spillway.** A constructed channel over, through, or around a dam, which is designed to accommodate the inflow design flood and thus prevent overtopping by the reservoir. ( )

**38. Storage Capacity.** The total storage in acre-feet at the maximum design storage elevation. ( )

**011. – 014. (RESERVED)**

**015. AUTHORITY OF REPRESENTATIVE.**

When plans, drawings, and specifications are filed by another person on behalf of an owner, written evidence of authority to represent the owner shall be filed with the plans, drawings, and specifications. ( )

**016. – 019. (RESERVED)**

**020. DAM SIZE CLASSIFICATION.**



**01. Size Classification.** The following table defines the height and storage capacity limits used by the Department to classify dams regulated for the benefit of public safety:

Size Classification	Height	Storage Capacity
Small Dams and Reservoirs	Ten (10) feet or more but less than twenty (20) feet	and Fifty (50) acre-feet or more but less than one hundred (100) acre-feet.
Intermediate Dams and Reservoirs	Twenty (20) feet or more but less than forty (40) feet	and One hundred (100) acre-feet or more but less than four thousand (4,000) acre-feet.
Large Dams or Reservoirs	Forty (40) feet or more	or Four thousand (4,000) acre-feet or more.

( )

**02. Determination of Size.** The Director shall determine the size category of a new or existing dam.

( )

**021. – 024. (RESERVED)**

**025. HAZARD CLASSIFICATION.**

**01. Hazard Classification.** The following table describes categories of hazard used by the Department to classify dams relative to the potential failure consequences estimated for downstream locations. The listed hazard categories are meant to serve as guidelines for implementing design, construction, and operation criteria, subject to final interpretation by the Director:

Hazard Category	Downstream Development	Estimated Loss of Life	Economic Losses
Low	Undeveloped property, no permanent or permanently occupied structures for human habitation.	No loss of life	Low probability for economic loss or damage to or disruption of essential infrastructure.
Significant	No concentrated urban development, 1 or more permanent structures for human habitation within the flood zone that are potentially inundated with flood water at a depth of two (2) feet or less.	Loss of life is unlikely to occur	Significant damage to agricultural, commercial, or industrial facilities; damage to or the disruption of transportation, utilities, or other public facilities or values including environmental loss.
High	Urban development, or any structure for permanent or temporary human habitation which are potentially inundated with flood water at a depth greater than two (2) feet	High probability for loss of life	Major damage to agricultural, commercial, or industrial facilities; damage to or the disruption of transportation, utilities, or other public facilities or values including prolonged environmental loss.

**02. Determination of Hazard Classification.** The Director shall determine the hazard category of a new or existing dam. Any dam classified as Significant or High hazard regardless its height and storage capacity shall meet the requirements specified in Rules 35, 45, 50, 55, and 60 of these rules. ( )

**026. – 029. (RESERVED)**

**030. FORMS.**

Forms required by these rules are available from the Department to interested parties upon request. ( )

**031. – 034. (RESERVED)**

**035. DESIGN REPORTS, DRAWINGS, AND SPECIFICATIONS.**

The following provisions shall apply when submitting plans, drawings, reports, and specifications for dams to the Director for design review and approval, prior to commencing construction. ( )

**01. Submission of Duplicate Plans, Drawings and Specifications.** Any owner desiring to construct, enlarge, alter, or repair any dam, shall submit duplicate plans, drawings and specifications prepared by an engineer for the proposed work to the Director with required fees for approval prior to commencing construction. ( )

**02. Applying for and Obtaining Written Approval.** Construction of a new dam, or the enlargement, alteration, or repair of such shall not commence until the owner has applied for and obtained written approval of the plans, drawings, and specifications from the Director. ( )

**03. Preparation and Submission of Plans.** Plans and drawings shall be of a sufficient scale with an adequate number of views showing proper dimensions, so that the plans and drawings may be readily interpreted and so that the structure and appurtenances can be built in conformance with the approved design. Plans and drawings shall be submitted in both printed and digital format, with the printed version consisting of paper size eleven by seventeen (11 x 17) inches. After reviewing the plans, the Director will notify the owner of any required changes. ( )

**04. Information Included with Plans.** Plans for new dams or the enlargement, alteration, or repair of such shall include as much of the following information as determined necessary by the Director to adequately describe the enlargement, alteration, or repair and the effect on the existing structure or its appurtenances: ( )

**a.** A topographic map of the project site showing the location of the proposed construction by section, township and range, and location of all borings, test pits, borrow pits and other locations of samples obtained for field or laboratory testing; ( )

**b.** A profile depicting the locations, elevations, and depths of borings or test pits, including the visual illustration of logs of bore holes, test pits, or borrow pits; ( )

**c.** A cross-section of the structure at maximum section showing elevation and width of crest, slopes of upstream and downstream faces, thickness of riprap, zoning of earth embankment, location of cutoff and bonding trenches, elevations and dimensional heights, size and type of conduits, valves, operating mechanism, and dimensions of all other essential elements deemed to be necessary for properly constructing the approved design; ( )

**d.** Detailed drawings showing plans, cross and longitudinal sections of appurtenant features such as but not limited to the spillway, training walls, outlet conduits, valves, gates, trash rack, and control works; ( )

**e.** A curve or table showing the capacity of the reservoir or tailings impoundment in acre-feet vs. gauge height referenced to a common project datum and the computations used in making such determinations; ( )

**f.** A curve or table showing the outlet discharge capacity in cubic feet per second vs. gauge height of reservoir storage level, and the computations used in making such determinations; ( )

**g.** A curve or table showing the spillway discharge capacity in cubic feet per second vs. gauge height of the reservoir or flood surcharge level above the spillway crest and the computations used in making such determinations; ( )

**h.** Detailed drawings of spillway structure(s), including cross-sections of the channel entrance and exit points to and from the spillway and a spillway profile; ( )

**i.** Plans for flow measuring devices capable of providing an accurate determination of the flow of the stream above or below the reservoir, and a permanent reservoir or staff gauge near the outlet of the reservoir plainly marked in feet and tenths of a foot referenced to an approved datum; and ( )

**j.** Plans or drawings of instruments recommended by the owner or engineer to monitor the performance of the dam to assure safe operation, or as may be required by the Director as deemed necessary to monitor any structure for benefit of public safety regardless of size. ( )

**05. Specifications.** The engineer shall prepare specifications that include instructions for construction of the approved design in accordance with accepted engineering and industry standards of care, including provisions for adequate observation, inspection, and control of the work by an engineer during the period of construction. ( )

**06. Changes to the Approved Design.** The approved design shall not be materially changed without prior written consent of the Director. Design changes which may affect the stability, size, or integrity of the structure, while construction is underway, shall be submitted for the Director's review and approval. In emergency situations, the owner shall make the required alterations or repairs necessary to relieve the emergency, and subsequently notify the Director of all alterations or repairs implemented. ( )

**07. Inspections.** The owner shall allow inspections by the Department to assure the dam and appurtenant structures are constructed in conformance with the approved plans and specifications, or as may be revised by the engineer and approved by the Director if there are unforeseen conditions discovered during site preparation or construction which potentially jeopardize the future integrity and safety of the project works. The Department may request of the owner that certain stages of construction not proceed without inspection and approval by the Director. ( )

**08. Inspection, Examination and Testing of Materials.** All materials and workmanship shall be subject to review, inspection, examination, or testing by the Director. ( )

**09. Rejection of Defective Material.** The Director may order the owner or engineer to reject defective material. The owner shall correct rejected workmanship and replace rejected material with approved material. ( )

**10. Suspension of Work.** The Director may order the engineer to suspend any work that is or is likely to be subject to damage by inclement weather conditions. ( )

**11. Responsibility of Engineer.** These provisions shall not relieve the engineer of their responsible charge to assure that construction is accomplished in accordance with their approved plans and specifications as mandated by Sections 54-1202(10) and (15), Idaho Code, or to unilaterally suspend work as deemed necessary. ( )

**12. Design Report.** Owners proposing to construct, enlarge, alter, or repair a dam shall submit an engineering or design evaluation report to accompany the plans and specifications. The engineering report shall include as much of the following information as necessary to present the technical basis for the design and to describe the analyses used to evaluate performance of the structure and appurtenances. ( )

**a.** All technical reference(s), equations, calculations, and assumptions used in the design. ( )

**b.** Hydrologic data used in determining runoff from the drainage areas, reservoir flood routing pertinent to the project location, and hydraulic evaluations of the outlet(s) and the spillway(s) as may be required for approval of the design plans and specifications. ( )

c. Investigation of site and subsurface conditions, to include the engineering properties of the foundation area and of each type of material to be encountered or used in the construction of the project works. ( )

d. A stability analysis, including an evaluation of overturning, sliding, slope, and foundation stability and a seepage analysis; ( )

i. An evaluation of seismic design loads may be included in the stability analysis for all dams as deemed necessary by the Director for benefit of public safety. The evaluation required for the design of large dams or high hazard structures shall use the maximum ground acceleration which could affect the dam site as established by deterministic or probabilistic analyses. ( )

ii. Seismic analyses may be waived by the Director for new or existing dams if the consequence of failure is demonstrated to be sufficiently low or the critical features of design are demonstrated to be sufficiently conservative to allow minor deformation(s) without releasing the contents of the impounding structure. ( )

e. Geologic description of reservoir area, including evaluation of landslide potential; ( )

f. Engineering properties and the weathering characteristics of the contents proposed for storage in the impoundment, if applicable; ( )

g. Other information which would aid in evaluating the safety of the design. ( )

**13. Additional Information/Waiver.** The Director may require the filing of such additional information which in his opinion is necessary for the benefit of public safety or waive any requirement in these rules if available data demonstrates that it is unnecessary. ( )

**14. Alternate Plans.** The Director may accept plans and specifications for dams, or portions thereof prepared for other agencies which are determined to meet the requirements of Rule 35, including but not limited to the following: ( )

a. An operation plan; or ( )

b. An emergency action plan to help protect downstream of life and property. ( )

**036. – 044. (RESERVED)**

**045. EMERGENCY ACTION AND OPERATION PLANS.**

An Emergency Action Plan (EAP) is required for all Significant and High Hazard dams. The EAP shall establish emergency procedures for notification and response during unexpected or non-routine events that occur naturally, or in response to mechanical issues, or due to intentional vandalism/terrorism. The EAP may be a component of an Operation Plan that includes comprehensive guidelines and procedures for inspection, operation, maintenance, and monitoring of instruments required to record performance of the structure during normal operating cycles, critical filling, or flood periods, or as may be necessary for evaluating the effects of an earthquake. Before the initial filling of a reservoir, the owner shall file with the Director an EAP for review and approval. The Director may waive the EAP requirement of individual Significant Hazard Dam upon a determination that the flood inundation zone resulting from the potential failure or uncontrolled release of contents impounded by the structure will not damage downstream property. ( )

**046. – 049. (RESERVED)**

**050. NEW DAMS AND RESERVOIRS.**

The following criteria shall be used by the Director as a basis to evaluate the design of new embankment dams and reservoirs. These guidelines are intended for a broad range of circumstances, and engineers should not consider them as a restriction to the use of other sound engineering design principles. Exclusion from these established criteria will be considered by the Director on a case-by-case basis during design review of plans, drawings, reports, and

specifications submitted for approval prior to commencing construction. Structures which are or will be constructed of other materials, for example concrete, timber, steel, or combinations thereof shall comply with these criteria as found appropriate by the Director, and with other engineering design methods and construction standards of care approved by the Director. ( )

**01. Embankment Stability.** Slope stability analyses shall determine the appropriate upstream and downstream slopes. Unless a discrete slope stability analysis determines otherwise, the embankment slopes of earthen dams shall comply with the following:

Upstream slope	3:1 or flatter
Downstream slope	2.5:1 or flatter

( )

**a.** Embankments shall be designed, constructed, and maintained to assure stability under static loads and prevent instability due to seepage or uplift forces, rapid drawdown conditions, and applied seismic loads. ( )

**b.** The design analysis shall consider the need for installing filters, including but not limited to chimney drains, blanket drains, or toe drains, to avoid developing saturated conditions and protect against piping of the embankment fill material. Transmission of seepage through the embankment, abutments, and foundation shall be controlled to prevent internal erosion or the removal of material and instability where seepage emerges. ( )

**c.** The minimum factor of safety for a steady state loading condition shall be one point five (1.5.) The minimum factor of safety for rapid drawdown loading shall be one point two (1.2.) The minimum factor of safety for seismic loading shall be one point zero (1.0.) ( )

**d.** Seismic Stability. ( )

**i.** The stability of an embankment subjected to earthquake ground motions may be analyzed by the engineer using either a dynamic response or pseudo-static analyses. Pseudo-static analyses are acceptable for embankment dams and foundations composed of non-liquifiable soils that preclude the generation of excess pore water pressures due to shaking. Otherwise, the stability analysis shall employ a dynamic response method. ( )

**ii.** Slope deformation analyses are required for structures that are constructed of cohesionless soils exhibiting fine grain-size gradation and/or on foundations that may be subject to liquefaction. ( )

**iii.** The design analyses for large and high hazard dams shall include a geologic and seismic report. The seismic report shall identify the location of faults, evaluate landslide potential, and include a history of seismicity. A comparison using deterministic and probabilistic analyses to calculate peak ground acceleration at the dam site may be required for geographic areas of the state showing evidence of seismic faults/faulting, as determined by the Director. ( )

**iv.** The design analysis for dams that do not meet the size or hazard criteria listed in Rule 050.01.d.iii. shall include in the stability analysis peak ground accelerations obtained from Seismic Hazard Maps published by the United States Geologic Survey (USGS) using a minimum return interval of 2 percent (2%) probability of exceedance in fifty (50) years, or greater interval, as determined by the Director. ( )

**e.** Where in the opinion of the Director, embankment design or conditions warrant, the owner may be required to instrument their embankment or foundation. ( )

**02. Top Width.** The minimum top width for any embankment shall be twelve (12) feet to allow safe access by wheeled vehicles or tracked equipment for maintenance or repair. ( )

**03. Cutoff Trenches or Walls.** Cutoff trenches shall be excavated into competent foundation material to bear on an approved stratum or zone. ( )

a. The cutoff trench shall be backfilled with suitable material free from organic matter and debris and compacted to the specified moisture and density. The cutoff trench shall extend up the sides of both abutments to the design maximum storage elevation. ( )

b. Cutoff trenches shall be wide enough to allow the free movement of excavation and compaction equipment. To provide for proper compaction side slopes shall be no steeper than one to one (1:1) for shallow depths up to twelve (12) feet, and no steeper than one and one half to one (1.5:1) for greater depths. Flatter slopes may be required for safety and stability, as determined by the Director. ( )

c. Concrete cutoff walls may be used in a similar manner as cutoff trenches, with the base firmly entrenched in the underlying foundation material. Where suitable bedrock or suitable foundation material exists, concrete cutoff walls shall be doweled with steel rebar a minimum depth and spacing determined by the engineer necessary to create a structural bond with the underlying foundation. Concrete walls shall have a minimum vertical projection above the foundation surface of three (3) feet, oriented perpendicular to the surface, and shall have a minimum thickness of twelve (12) inches. Reinforcement of the concrete may be required in addition to being doweled into suitable foundation material(s). ( )

**04. Impervious Core Material.** Soils used to construct the inner sectional core of an embankment shall consist of relatively impervious cohesive materials approved by the engineer and compacted in strict accordance with the approved plans and specifications. A minimum ninety-five percent (95%) maximum dry density compacted in accordance with the American Society Testing Materials (ASTM) D-698 is required. The use of other relatively impermeable however non-cohesive material is subject to approval by the Director on a case-by-case basis. ( )

**05. Drains.** Toe, blanket, or chimney drains consisting of approved free draining material or approved manufactured drainage geotextile shall be installed where necessary to maintain the phreatic line at or near the design level(s) within the embankment. ( )

a. Filter design for toe, blanket, or chimney drains, or any combination thereof shall be included in the design plans and specifications submitted by the engineer for review and approval by the Director. ( )

b. Perforated and slotted drainpipes must be four (4) inches diameter or greater and shall be surrounded by permeable drainage material equal to or greater than the outside pipe diameter. The maximum particle size of the drainage material shall be between one-half (1/2) inch to three-fourths (3/4) inch. Underdrains and collection pipes must be constructed of noncorrosive material, taking care to ensure slots and perforations are appropriately sized to avoid long-term migration of the drain material into the pipe. ( )

**06. Freeboard.** The elevation of the top of the embankment shall be constructed and maintained above the design flood surcharge level, including the vertical height of wind generated waves estimated for the greatest distance of open water measured perpendicular to the major axis of the dam. Camber estimated for post-construction settlement shall be included in the design and incorporated in the construction of the top of the embankment. ( )

a. The minimum freeboard shall be two (2) feet plus wave height as calculated for the design spillway flow capacity during passage of the one percent (1%) flood, or greater to equal the surcharge elevation of the reservoir during passage of the inflow design flood. ( )

**07. Riprap.** All embankments which are subject to erosion on either the upstream and downstream slope(s) shall be protected using riprap or other approved material. Pipes, cables, brush, tree growth, dead growth, logs, or floating debris are not acceptable substitutes for approved riprap. The engineer, with approval of the Director, shall determine the extent of slope protection as deemed necessary for existing site, seasonal, and operating conditions. ( )

a. Where rock riprap or other approved material is used for erosion protection on the upstream slope, it shall be placed on an approved thickness of well-graded and free-draining granular bedding material. Riprap or other approved erosion protection material shall extend up the slope a sufficient height. ( )

**08. Outlet Conduits.** All reservoirs impounding water shall have an outlet conduit of sufficient

capacity to prevent interference with natural streamflow through the reservoir to the injury of downstream appropriators. In addition to any natural flow releases, the outlet conduit should be of sufficient capacity to pass at the same time, the maximum water requirement of the owner. A larger outlet conduit may be required to provide adequate release capacity as determined by the Director. ( )

**a.** Outlet conduits shall be laid on a firm and stable foundation material to avoid the likelihood of differential settlement or consolidation causing the separation or misalignment of the conduit. Outlet conduits shall be encased on all sides by concrete of approved compressive strength and having a minimum thickness of twelve (12) inches. During construction outlet conduits shall be properly aligned on an established grade and adequately supported to prevent movement or damage caused by placement of concrete or by compaction equipment. ( )

**b.** Unless otherwise required, the outlet conduit shall have a minimum inside diameter of twelve (12) inches. The conduits shall consist of approved material and composition as approved by the Director. Exceptions may be made only where conditions warrant, but in no case shall the reasonable life expectancy of the pipe be less than the design life of the embankment. ( )

**09. Gates and Valves.** ( )

**a.** Conduits shall be gated on the upstream end to avoid pressurizing the conduit inside the embankment. Pressurized conduits shall be fitted with both a guard gate and a control gate or valve. ( )

**b.** All conduits shall be vented directly behind the gate. ( )

**c.** All gate stem pedestals shall be securely founded to prevent future movement. ( )

**d.** At least one (1) of the sides of the inlet structure shall be open to allow water to flow into the outlet conduit. The opening shall be covered with a trash rack. ( )

**e.** Trash racks should be designed to facilitate cleaning of trash and debris. If fish screens are used, they shall be placed over the trash rack and shall be removable for cleaning or be self-cleaning. ( )

**10. Outlet Controls.** Outlet controls shall be installed at a stable location, on the crest or on an elevated platform, or within an enclosure when required, but secured to prevent unauthorized operation. Reservoirs storing water during the winter and subject to severe freezing conditions shall have inclined gate stems or other controlling mechanical or hydraulic features enclosed in a protective sleeve which is buried beneath the upstream slope to suitable depth, to prevent damage or movement caused by ice. ( )

**11. Release Capacity.** Based on the size of the dam and the downstream hazard classification assigned by the Director, the release capacity shall equal or exceed the inflow design flood as set forth in the following table. Where the table specifies an inflow design flood range, the governing inflow design flood shall be determined by the professional engineer in responsible charge of design and IDWR based on a site-specific review of the proposed dam, watershed conditions, and downstream hazard potential. The minimum flow capacity of the emergency spillway(s) shall be sized using the one-percent (1%) rate of flow (i.e., Q100 cfs) calculated for the contributing watershed upstream from the dam, plus two (2) feet of freeboard, plus wave height.

Hazard Classification	Size Classification	Inflow Design Flood (IDF)
Low	All Sizes	Q100
Significant	Small	Q100
	Intermediate	Q100 to Q500

Hazard Classification	Size Classification	Inflow Design Flood (IDF)
	Large	Q500
High	Small	Q100
	Intermediate	Q500
	Large	Q500 to PMF

( )

**a.** All spillways shall be stabilized for the discharge of flow using concrete, masonry, riprap, or sod, if not constructed in resistant rock. ( )

**b.** For embankment dams, where site conditions allow, the spillway shall be constructed independent of the embankment. The spillway(s) shall guide the discharge of water away from the embankment. ( )

**c.** The minimum base width of an open-channel spillway shall be ten (10) feet, or greater to allow access by mechanical equipment. Siphon pipes or pumps are not acceptable substitutes for an open-channel spillway. ( )

**d.** The effective flow capacity of spillways shall be undiminished by bridges, fences, pipelines, or other obstructions. ( )

**e.** The installation of stop logs or flashboards in the spillway is prohibited unless they are part of an approved design and included as an integral part of an approved operation plan. ( )

**12. Reservoir Site.** Prior to filling the reservoir, the site shall be cleared of all woody material, growth or debris that is large enough to lodge in the spillway, or outlet works. ( )

**13. Inspection and Completion Reports.** As construction proceeds, it is the responsibility of the engineer to submit test reports (e.g., soil material analyses, density tests, concrete strength tests, etc.) along with periodic inspection and progress reports to the Director. ( )

**a.** Upon completion of construction the owner or his engineer shall provide the Director a written narrative account of all items of construction. Record drawings (i.e., as-builts or as-constructed drawings) and revised specifications shall be submitted to the Director to accurately reflect the completed project works. ( )

**b.** The engineer, acting on behalf of and representing the owner, shall certify that the construction, reconstruction, enlargement, replacement, or repair of the embankment and appurtenances was completed in accordance with the record drawings and specifications. ( )

**051. – 059. (RESERVED)**

**060. EXISTING DAMS AND RESERVOIRS.**

All dams and reservoirs regulated by the Department shall be operated and maintained to retain the existing structural dimensions, to resist deformations or movement, and to maintain the hydraulic capacity of the outlet works, spillway, and other discharge features as designed and constructed, or as otherwise required by these rules. ( )

**01. Analyses Required.** The analyses required by Rule 035 shall apply to all existing dams when the Director specifically requires the analyses. Where applicable, non-embankment dams shall comply with the following criteria. ( )



**a.** Every dam shall have an overflow spillway with a capacity that will pass an inflow design flood of one percent (1%) probability of occurrence (i.e., Q100) or more, with the reservoir or the impoundment full to the spillway crest while maintaining the freeboard required by Rule 050.06. ( )

**b.** The Director may lessen or waive the spillway requirement for dams that demonstrate out-of-stream (off-channel) storage. ( )

**c.** The release capability or discharge capacity can include the combined rates of flow for multiple appurtenances; for example, spillways, outlets, diversion facilities, or other constructed conveyance features. Approved operating procedures which can be shown to utilize upstream storage, diversion, and reservoir flood routing to reduce flood runoff events may also be considered. The remainder of the required release capacity, if any, may be met by the following: ( )

**i.** Reconstruction, enlargement or addition of spillways, outlets, diversion facilities, or other constructed conveyance features. ( )

**ii.** A showing acceptable to the Director that potential failure of the dam during a flood of the specified magnitude described in Rule 050.11 would be incrementally small in comparison to the flood being considered, and that the release of reservoir would not substantially increase downstream damages to life and property which are anticipated to result from any natural flood equal to or exceeding that magnitude. ( )

**iii.** A showing acceptable to the Director that limiting physical factors unique to the project site exist that prevent construction of a spillway or other release capability mechanisms during a flood of the specified magnitude described in Rule 050.11, and provided the owner implements storage operational procedures, or restrictions, or provides for emergency warning to protect life and property. ( )

**d.** Seismic loads shall be evaluated and applied to dam stability. The Director may require that evaluation of seismic loads for large and high hazard structures shall use the maximum ground motion/acceleration generated by the maximum credible earthquake. The Director may accept maximum ground motion/acceleration corresponding to specified return intervals using a probabilistic evaluation of earthquake history in accordance with USGS hazard maps for any existing dam regardless of size or hazard potential. ( )

**e.** The Director may accept existing studies relative to requirements of Rule 060.01.a. and Rule 060.01.d., if the Director determines the information provided fulfills the requirements of the rules. ( )

**f.** The Director may allow the owner of an existing dam a compliance period to complete structural modifications or implement other improvements deemed necessary to provide the necessary hydraulic capability. ( )

**g.** The Director may allow the owner of an existing dam a compliance period to complete structural modifications or implement other improvements deemed necessary to resolve seismic stability or safety concerns. ( )

**h.** Within thirty (30) days after completing the analyses required in Rules 060.01.a. or 060.01.d., the owner of an existing dam found deficient by either analyses shall file with the Director a plan and schedule for mitigating the deficiency. ( )

**02. Other Requirements.** ( )

**a.** Routine maintenance items include the following: ( )

**i.** Eradication of rodents and filling animal burrows; ( )

**ii.** Removal of vegetation and debris from the dam; ( )

**iii.** Restoring original dimensions of the dam by the addition of fill material; ( )

- iv. Addition of bedding or riprap material which will not increase the height or storage capacity; ( )
- v. Repair or replacement of gates, gate stems, seals, valves, lift mechanisms or vent pipes with similar equipment; or ( )
- vi. Repair or replacement of wingwalls, headwalls or aprons including spalling concrete. ( )
- b.** The following are not routine maintenance items and are subject to design review and approval prior to commencing construction: ( )
  - i. Alteration or modification of embankment slopes; ( )
  - ii. Replacement, reconstruction, or extension of outlets; ( )
  - iii. Foundation stabilization; ( )
  - iv. Filter or drain construction or replacement; ( )
  - v. Spillway size alteration or modification; ( )
  - vi. Installation of instrumentation or piezometers; or ( )
  - vii. Release capability or reservoir storage modification. ( )
- c.** Items not specifically described in Rules 060.02.a. and 060.02.b. will be determined by the Director as either routine or non-routine upon receipt of a written request from the owner or his representative seeking such a determination. ( )
- d.** Where riprap is required to prevent erosion and to maintain a stable embankment, pipes, cables, brush, tree growth, logs, or floating debris are not acceptable substitutes for rock riprap and granular bedding material. Dams or portions thereof which are stable without riprap, are not required to have riprap. ( )
- e.** Upon completion of reconstruction of a dam or feature of a dam included in Rule 060.02.b., the owner or his engineer shall provide the Director a written narrative account of all items of work. Record drawings and revised specifications shall be submitted to the Director if the completed project has been substantially changed from the plans and construction specifications originally approved. ( )
- f.** Upon request, the owner of every dam shall provide his name and address to the Director and shall advise the Director of future changes in ownership. If the owner does not reside in Idaho, the owner shall provide the name and address of the person residing in Idaho who is responsible for the operation, maintenance, and repair of the dam. ( )

**061. – 064. (RESERVED)**

**065. DAMS STORING TAILINGS AND WATER.**

New or existing mine tailings impoundment structures intended to store fifty (50) acre-feet or more of water above the surface of the tailings material shall meet the applicable requirements specified in Rules 035, 045, and 060 of these rules and IDAPA 37.03.05, “Mine Tailings Impoundment Structure Rules.” The Director may waive applicable requirements in Rule 035, 045, or 060 if, in the opinion of the Director, sound engineering design provided by the owner indicates such requirements are not applicable. ( )

**066. – 999. (RESERVED)**

## PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

**Department or Agency:** Idaho Department of Water Resources

**Agency Contact:** Mathew Weaver

**Phone:** 208.287.4800

**Date:** September 12, 2022

**IDAPA, Chapter and Title Number and Chapter Name:**

IDAPA 37.03.06 Safety of Dams Rules

**Fee Rule Status:**  Proposed  Temporary

**Rulemaking Docket Number:** 37-0306-2201

### **STATEMENT OF ECONOMIC IMPACT:**

IDAPA 37.03.06 establishes acceptable standards for construction of dams and establishes guidelines for safety evaluation of new or existing dams. The Rule applies to all new dams, to existing dams to be enlarged, altered or repaired, and maintenance of certain existing dams, as specifically provided in the rule. The rule also establishes the collection of fee(s) to review plans, drawings, and specifications pertaining to the construction, enlargement, alteration, or repair of small high-risk, intermediate, or large dams. This chapter was adopted pursuant to Section 42-1714, Idaho Code.

The proposed rule has no impact to the state general fund, dedicated funds, or federal funds. Design review and construction inspection fees are controlled by statute rather than rule. Refer to I.C. § 42-1713. As a result, the proposed rule does not change existing fees.

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

**37.03.10 – WELL DRILLER LICENSING RULES**

**DOCKET NO. 37-0310-2201 (ZBR CHAPTER REWRITE, FEE RULE)**

**NOTICE OF RULEMAKING – PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized pursuant to §§ 42-238, 42-1734(19), and 42-1805(8), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2022.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rule.

The Idaho Department of Water Resources (IDWR) and the Idaho Water Resource Board (IWRB) (the “Agencies”) initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation \(ZBR\)](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, must be reviewed by the promulgating agency over a five-year period. This review is being conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at [https://adminrules.idaho.gov/forms\\_menu.html](https://adminrules.idaho.gov/forms_menu.html). This rule chapter was scheduled for review in 2022.

With this Notice, the Agencies propose a new chapter of well driller licensing rules. The new chapter is approximately 30% shorter than the existing well driller licensing rule chapter due to both internal agency analysis and external stakeholder negotiation, commentary, and editing. Changes to the rule come through a combination of (a) removal of obsolete provisions (such as Rule 21 Construction and Use of Holes that are Not Wells), (b) removal of unnecessary provisions (such as the definition and use of the term “responsible charge”), and (c) modifications to existing rules governing the “experience requirements” to obtain a well drilling license.

Pursuant to the ZBR process, this Notice represents the promulgation of a new rule chapter. As a result, the proposed rule does not contain strike-out/underline text in legislative format. The old rule has been repealed and replaced in its entirety. However, the development of the proposed rule text through two publicly-released preliminary rule draft iterations may be viewed at: <https://idwr.idaho.gov/legal-actions/rules/idwr-rulemaking-2022-2023/>. At the same website, the Agencies also developed and published rulemaking support documents, which provide the Agencies’ recommendations on rulemaking, rulemaking analysis, and responses to substantive comments received through the negotiated rulemaking process.

Citizens of the state of Idaho, water users, governmental agencies, and environmental groups may be interested in commenting on the proposed rule text. After consideration of public comments received in response to this Proposed Rule, the Agencies will present the final rule text to the Idaho Legislature in the late fall of 2022.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed:

IDAPA 37.03.10 establishes the requirements and procedures for obtaining and renewing authorization to drill wells in the state of Idaho. The rules also establish the requirements and procedures for obtaining authorization to operate drilling equipment under the supervision of a licensed driller. The licensing rules are applicable to all individuals and companies drilling or contracting to drill wells. The rules also implement the application licensing fees set forth in Idaho Code § 42-238.

**FISCAL IMPACT STATEMENT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A.

**NEGOTIATED RULEMAKING:** Pursuant to § 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 6, 2022, Idaho Administrative Bulletin, [Vol. 22-4, pages 51-52](#).

**INCORPORATION BY REFERENCE:** Pursuant to § 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: N/A.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on questions concerning this proposed rulemaking, contact Mathew Weaver at [mathew.weaver@idwr.idaho.gov](mailto:mathew.weaver@idwr.idaho.gov), (208) 287-4800.

Anyone can submit written comments regarding this proposed rule by mail to the address below or by email sent to [rulesinfo@idwr.idaho.gov](mailto:rulesinfo@idwr.idaho.gov). The Department will consider all written comments received by the undersigned on or before October 26, 2022.

Dated this 2nd day of September 2022

Gary Spackman, Director  
Idaho Department of Water Resources  
322 E. Front Street  
PO Box 83720  
Boise, ID 83720-0098  
Phone: (208) 287-4800

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 37-0310-2201**  
**(Zero Based Regulation (ZBR) Chapter Rewrite)**

**37.03.10 – WELL DRILLER LICENSING RULES**

**000. LEGAL AUTHORITY (RULE 0).**

Section 42-238, Idaho Code. ( )

**001. SCOPE (RULE 1).**

These rules establish the requirements and procedures for obtaining and renewing authorization to drill wells in the state of Idaho. The rules also establish the requirements and procedures for obtaining authorization to operate drilling equipment under the supervision of a licensed driller. The licensing rules are applicable to all individuals and companies drilling or contracting to drill wells. ( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS (RULE 10).**

Unless the context otherwise requires, the following definitions govern these rules. ( )

**01. Abandonment.** See Decommissioned Well. ( )

**02. Applicant.** An individual who submits to the Department a complete application for a license or operator's permit or a company that submits a complete application for a license. ( )

**03. Area of Drilling Concern.** An area designated by the director in accordance with Section 42-238, Idaho Code, within which special drilling procedures and equipment are needed to prevent waste or contamination of

- the ground water. ( )
- 04. Board.** The Idaho Water Resource Board. ( )
- 05. Bond.** A cash or surety bond obtained by a licensed driller or company (the principal) payable to the director (the obligee) to provide funding for decommissioning or repair should the driller fail to comply with well construction standards, and to allow information to be collected concerning the drilling of the well if the driller fails to submit a timely, accurate driller's report. ( )
- 06. Bottom Hole Temperature of an Existing or Proposed Well.** The temperature of the ground water encountered in the bottom of a well or borehole. ( )
- 07. Company.** A firm, co-partnership, corporation, or association licensed in accordance with these rules to drill or contract to drill wells. ( )
- 08. Compliance History.** An applicant's record of compliance with the laws and rules of Idaho and other states relating to drilling of wells. ( )
- 09. Continuing Education.** Education or training pertinent to the drilling industry and the construction, modification or decommissioning of wells. ( )
- 10. Continuing Education Committee (CEC).** A committee whose purpose is to review and approve activities related to continuing education credit. ( )
- 11. Decommissioned (Abandoned) Well.** Any well which has been permanently removed from service and filled or plugged in accordance with these rules. A properly decommissioned well will not: ( )
- a. Produce or accept fluids; ( )
  - b. Serve as a conduit for the movement of contaminants inside or outside the well casing; or ( )
  - c. Allow the movement of surface or ground water into unsaturated zones, into another aquifer, or between aquifers. ( )
- 12. Department.** The Idaho Department of Water Resources. ( )
- 13. Director.** The director of the Idaho Department of Water Resources or his duly authorized representative. ( )
- 14. Drilling or Well Drilling.** The act of constructing a new well, or modifying the construction, or decommissioning of an existing well. ( )
- 15. Drilling Permit.** Authorization by the Department to drill a well as provided in Section 42-235, Idaho Code. ( )
- 16. Drilling Site.** The location of the drill rig and immediate area where the drill rig and auxiliary equipment are set up to drill a well. ( )
- 17. Global Positioning System (GPS).** A global navigational receiver unit and satellite system used to triangulate a geographic position. ( )
- 18. License.** A certificate issued by the director to an individual or a company upon meeting the requirements of Section 42-238, Idaho Code, and these rules authorizing the drilling of wells permitted in accordance with Section 42-235, Idaho Code. ( )
- 19. Licensed Driller.** An individual having a license to drill wells and who is authorized to supervise operators in the state of Idaho to assure compliance with well construction standards. ( )

20. **Modify.** To deepen a well, increase or decrease the diameter of the casing or the well bore, install a liner, place a screen, perforate existing casing or liners, alter the seal between the casing and the well bore, or alter the well from its original construction. ( )
21. **Operator.** Any person authorized to operate drilling equipment for a licensed company or licensed driller after obtaining an operator's permit from the Director. ( )
22. **Operator's Permit.** A certificate issued by the director upon meeting the requirements of Section 42-238, Idaho Code, and these rules authorizing the holder to operate drill equipment. ( )
23. **Principal Driller.** A licensed driller designated by a company to supervise the company's drilling operations and activities. ( )
24. **Start Card.** An expedited drilling permit for the construction of cold-water Single Family residential wells. ( )
25. **Well.** An artificial excavation or opening in the ground more than eighteen (18) feet in vertical depth below land surface by which ground water of any temperature is sought or obtained. The depth of a well is determined by measuring the maximum vertical distance between the land surface and the deepest portion of the well. Any water encountered in the well is obtained for the purpose of these rules. Well also means any waste disposal and injection well as defined by Section 42-3902, Idaho Code. ( )
26. **Well Construction Standards.** IDAPA 37.03.09, "Well Construction Standards Rules," adopted by the board. ( )
27. **Well Driller's Report or Driller's Report.** A report required by Section 42-238, Idaho Code, describing drilling of the well and supplying information required on forms provided by the Department. ( )
28. **Well Log.** A diary maintained at the drilling site consistent with Section 42-238, Idaho Code. ( )
29. **Well Rig or Drill Rig.** Any power-driven percussion, rotary, boring, digging, jetting, augering, or any other power-driven mechanical equipment used in the drilling of a well. ( )

011. -- 019. (RESERVED)

**020. LICENSE APPLICABILITY (RULE 20).**

01. **Wells to be Drilled by Licensed Drillers.** A well shall only be drilled by a licensed driller, or an operator working under the supervision of a licensed driller except that a property owner, who is not licensed, can construct a well on his property for his own use without the aid of power-driven mechanical equipment. ( )
02. **Operators to Have Permits.** Any person authorized to operate drilling equipment under the supervision of a licensed driller shall possess an operator's permit as provided in these rules. ( )
03. **Company to be Licensed.** No company shall drill or contract to drill a well or wells unless the company has been issued a license and has employed a principal driller as described in accordance with these rules. ( )
04. **Decommissioning Wells.** Only licensed drillers and operators may decommission wells, except that wells may be decommissioned by the owner after receiving a specific waiver from the Director. ( )

021. -- 029. (RESERVED)

**030. OBTAINING A DRILLER'S LICENSE (RULE 30).**

**01. Experience Requirements. ( )**

**a.** An applicant for a driller's license shall submit evidence to establish a minimum of twenty-four (24) months of drilling experience. Twelve (12) of the twenty-four (24) months of drilling experience must have occurred within the five (5) year period immediately preceding the filing of the application. An applicant will be credited with one (1) month of drilling experience for each one hundred sixty (160) hours of employment as a driller or operator, or the equivalent, as determined by the director. Experience drilling monitoring wells, geothermal wells or other cased wells will be credited as experience by the Director if the equipment and drilling methods are applicable to water well construction. ( )

**02. Application Requirements.** An individual desiring a license shall file with the Department a completed application on a form provided by the Department accompanied by the following: ( )

**a.** The application fee required by Section 42-238, Idaho Code. ( )

**b.** Written documentation of drilling experience and compliance history. ( )

**c.** Successful completion of classroom study in geology, well drilling, map reading, and other related subjects may be substituted for up to, but not exceeding, twelve (12) months of drilling experience. The director will determine the number of months of classroom study, up to twelve (12), to be credited as experience. ( )

**d.** The names and addresses of up to three (3) references to confirm the applicant's drilling experience may be requested at the Department's discretion. ( )

**03. Examination.** An applicant determined by the director to have adequate experience and an acceptable compliance history, as confirmed by references acceptable to the director, is eligible to take a written examination. ( )

**031. OBTAINING A COMPANY LICENSE (RULE 31).**

**01. Application Requirements.** A company shall file with the Department a complete application for a company license upon a form provided by the Department to be accompanied by the following: ( )

**a.** The names and addresses of up to three (3) persons not affiliated with the company, whom the Department can contact for information regarding the company's past well drilling operations, may be requested at the Department's discretion. ( )

**b.** Designation of a principal driller who shall be a full-time employee of the company and shall drill wells only for the company. A licensed driller who renders only occasional, part-time or consulting drilling services to or for a company may not be designated as the principal driller. ( )

**c.** The names and addresses of drillers and operators presently employed. ( )

**032. OBTAINING AN OPERATOR'S PERMIT (RULE 32).**

**01. Experience Requirements. ( )**

**a.** An applicant for an operator's permit shall submit evidence to establish a minimum of 600 hours of well drilling experience acquired while in the presence of a licensed driller or operator. Evidence may include but is not limited to: payroll information, daily logs signed by a licensed driller or operator, or other documentation approved by the Director. ( )

**02. Application Requirements.** An individual desiring an operator's permit shall file with the Department a completed application on a form provided by the Department accompanied by the following: ( )

**a.** The fee required by Section 42-238, Idaho Code. ( )



**b.** Attendance records, completion certificates, or other documents that verify attendance and completion of two (2) continuing education credit hours, approved by the CEC, earned while in training to become an operator. ( )

**03. Written Examination.** Applicants for an operator's permit shall pass an examination pursuant to these rules. ( )

**04. Operator Drills Only for Licensed Driller or Company.** An operator shall drill only for the licensed driller or company approved by the director. If an operator changes employment to another licensed driller or company, a new operator's permit application or transfer form shall be filed as provided in this rule. ( )

**033. PROCESSING APPLICATION FOR A DRILLER'S LICENSE OR OPERATOR'S PERMIT (RULE 33).**

**01. Incomplete Application.** If an application is incomplete, not properly signed, or does not include the information required by these rules, the Department will advise the applicant in writing of the deficiency. If the deficiencies are not satisfied within ninety (90) days of sending the notice of the deficiency, the application will be void. The application fee is not refundable. ( )

**02. Issuance of License.** If the director, upon review of the application, determines that an applicant for license is qualified and the driller has subsequently taken and passed an examination, a notice will be sent to the applicant requesting a bond, in an amount determined in accordance with Rule 60, be filed with the Department. Upon receipt of a satisfactory bond, the director will issue a license to the applicant. ( )

**03. Issuance of Operator's Permits.** The Department will mail a notice and operator's permit card to the principal driller on behalf of the applicant if the application is complete and the applicant meets the qualifications described in these rules. ( )

**04. Driller's License or Operator's Permit Issued With Conditions or Denial of License or Operator's Permit.** The Director may issue a license or operator's permit with specific conditions or limitations based on the applicant's experience and compliance history. The Director may refuse to issue or renew a driller's license permanently or for a designated period if the driller has previously constructed wells improperly or constructed a well without a valid driller's license. If the Director determines that the applicant is not qualified, the Director will deny the application. Notice of a denied application or a conditioned license or operator's permit will be given to the applicant in accordance with IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources." ( )

**034. EXAMINATION PROCEDURES (RULE 34).**

**01. Written Examination.** Written examinations will be offered at Department offices on the first Monday of each quarter. If the first Monday is a legal holiday, written examination will be offered on the first Tuesday. Re-examination may be taken at a regularly scheduled examination date during a following quarter and shall be scheduled with the Department office originally testing the applicant. ( )

**02. Verbal or Oral Examination.** Successful passage of a verbal examination may satisfy all or a part of the written testing requirements under the following circumstances: ( )

**a.** The applicant requests a verbal examination and shows cause acceptable to the director why the examination should be verbal rather than written. Applicants desiring to take the examination verbally shall request that a verbal examination be scheduled allowing at least fifteen (15) days to set an examination date. ( )

**b.** The director determines that because of the applicant's compliance history, additional testing is needed to determine the applicant's qualifications. ( )

**03. Examination Scoring.** A score of seventy percent (70%) or higher is a passing score. ( )

**04. Assistance Must Be Authorized.** The use of written materials, equipment, or other individuals to

assist an applicant during an examination is prohibited unless specifically authorized by the Department. An applicant receiving unauthorized assistance during an examination may be disqualified and the application may be rejected. An application filed by a disqualified applicant will not be processed for a period of up to one (1) year from the time of disqualification. ( )

**035. EXPIRATION AND RENEWAL OF DRILLER LICENSES AND OPERATOR PERMITS (RULE 35).**

**01. Expiration of Licenses and Permits.** All driller licenses and operator permits expire at the end of the licensing period for which they are issued. The licensing period begins April 1 and ends March 31 of the second year following issuance. ( )

**02. Renewal Application.** A license or operator permit may be renewed by submitting a renewal application including the following: ( )

**a.** A completed application on a form provided by the Department. An application for renewal shall be signed by the principal driller. ( )

**b.** The renewal fee required by Section 42-238, Idaho Code. ( )

**c.** A new bond or continuation certificate for an existing bond covering all drillers and operators employed by the company. ( )

**03. Continuing Education Requirements.** Credit hours not to exceed twenty (20) are required for renewal of a driller license or operator permit for any licensing period. ( )

**036. PROCESSING APPLICATION TO RENEW LICENSE OR OPERATOR'S PERMIT (RULE 36).**

**01. Processing Applications for Renewal.** The Department shall receive a complete application for renewal no later than March 15 to assure that the license or operator's permit will remain in force without interruption. If the director determines that the application is complete and the applicant is qualified, the license or operator's permit will be renewed for the period ending on March 31 of the second year after approval of the renewal. ( )

**02. Regulatory Compliance Required for Renewals.** A license or operator's permit will not be renewed if the applicant has not submitted all required driller's reports, applications for drilling permits, fees, agreed civil penalties, has not complied with all orders requiring repair or decommissioning of improperly constructed wells or is not otherwise in compliance with Sections 42-235 and 42-238, Idaho Code, and the applicable rules. ( )

**03. Compliance History.** If the Director determines that the applicant has exhibited an unacceptable compliance history, the Director may deny renewal, refuse renewal for a specified time, or renew with conditions, including but not limited to an increased bond amount. ( )

**04. Renewal of Expired Licenses or Operator's Permits.** A license or an operator's permit which has expired or otherwise not been in effect for a period not exceeding three (3) years shall be renewed in accordance with the requirements of Rule 35. An applicant for renewal shall provide verification of earned credit hours required for the entire period since the license or operator's permit was last issued. If a license or operator's permit has been expired or otherwise not effective for a period of more than three (3) years, a new application shall be submitted in accordance with these Rules. The director may waive the examination requirement if the applicant has been previously licensed or permitted in the state of Idaho. ( )

**05. Reuse of Identification Numbers.** The identification number assigned to a license by the Department will not be reused if the license has been expired or otherwise not in effect for three (3) years or more except, at the director's discretion, the number may be reissued to the original owner. ( )

**06. Condition or Denial of an Application for Renewal.** If the Director determines that the applicant has not or cannot fully comply with these rules, a license or operator's permit may be issued with conditions. If the

Director determines that the applicant is not qualified or has documented violations of well drilling laws and/or rules, the Director will deny the application. When there are documented violations of well drilling laws and/or rules, including well construction standards, the Director may issue a conditional license or operator's permit or deny an application based on the applicant's compliance history. Notice of a denied application or a conditioned license will be given as provided in IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources." ( )

**037. -- 049. (RESERVED)**

**050. DUTIES AND RESPONSIBILITIES OF DRILLERS, COMPANIES AND OPERATORS (RULE 50).**

- 01. Licensed Drillers and Principal Drillers.** All licensed drillers and principal drillers shall: ( )
  - a.** Allow drilling only by those authorized by and under the supervision required by these rules and according to any conditions of the license or permit. ( )
  - b.** Complete each well in compliance with IDAPA 37.03.09, "Well Construction Standards Rules," and drilling permit conditions. ( )
  - c.** Maintain a valid cash or surety bond, as defined in Rule 60. ( )
  - d.** Display the driller or company license number in a conspicuous place on the drill rig using a metal identification plate issued by the Department or other permanent marking approved by the director. If requested by the applicant, one plate will be issued upon initial licensure. Replacement plates or additional plates are available for a fee. ( )
  - e.** Keep current the Department's list of operators and drillers employed by the licensed driller or company, including current addresses for the company, drillers, and operators. The licensed driller or principal driller shall be held responsible for all drilling activity of a driller or operator under their supervision until such notification has been submitted in writing to the Department that the driller or operator is no longer employed by the licensed driller or company. ( )
  - f.** Have at the drilling site the driller's license and drilling permit or other written authorization from the director to drill the well. ( )
  - g.** Obtain specific written authorization from the director to drill: ( )
    - i.** In contaminated areas identified by the Department; ( )
    - ii.** In areas of drilling concern designated by the Department; ( )
    - iii.** A public drinking water supply well, as defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; ( )
    - iv.** Low temperature geothermal resource wells; and ( )
    - v.** Geothermal resource wells. ( )
  - h.** Monitor and record bottom-hole temperature in areas where low temperature geothermal resources are known or suspected or when the well is being constructed pursuant to IDAPA 37.03.09, Rule 30, as a low temperature geothermal resource well. Bottom-hole temperature of every well being constructed pursuant to IDAPA 37.03.09, Rule 30, must be measured, recorded, and reported on the well drillers report. ( )
  - i.** Maintain a daily well log at the drilling site acceptable to the Department and as required by Section 42-238(11), Idaho Code. Pertinent data required to be recorded on the daily log must include information sufficient to complete a well drillers report acceptable to the Director. The driller shall retain the well log for at least one (1) year after the driller's report is submitted to the Department. ( )

**j.** Submit driller's reports, acceptable to the Director, on forms approved by the Department within thirty (30) days following removal of the drill rig from the drilling site at completion of the well. Driller's reports shall be prepared from information recorded on the daily well log. Driller's reports returned to the driller due to deficiencies must be corrected and returned to the Department within thirty (30) days of mailing by the Department. ( )

**k.** Attach a well tag supplied by the Department to every well drilled for which a drilling permit is required. The tag shall be affixed permanently to the casing, or other permanent object attached to the well, by a method approved by the Director prior to removing the well rig from the drilling site. ( )

**l.** Cause all drilling activity under the supervision of the driller to cease when the driller's license expires, becomes invalid, or is suspended or revoked. ( )

**02. Companies.** Companies shall: ( )

**a.** Have a principal driller always designated with the Department and keep current the Department's contact information to include a valid phone number for the principal driller. ( )

**b.** Notify the Department within ten (10) days of the principal driller leaving employment with the company. The company's license shall immediately become void and of no effect when the principal driller leaves employment with the company and shall remain so until the Department has been notified in writing that a new principal driller has been employed and designated by the company. Failure to designate a principal driller within ninety (90) days of the departure of the designated principal driller is cause for the director to take action to cancel the company's license. ( )

**c.** Always maintain a bond as required in Rule 60. ( )

**03. Operators.** Operators shall: ( )

**a.** Have in their possession a valid operator's permit while operating drill rigs or drilling equipment. ( )

**b.** Only drill wells as authorized by the operator's permit. ( )

**c.** Maintain a complete and accurate well log at the drilling site. ( )

**d.** Co-sign a driller's report with the licensed driller upon completion of the well. ( )

**051. -- 059. (RESERVED)**

**060. BONDING (RULE 60).**

**01. Bonding Requirements.** Each licensed company shall submit a surety bond or cash bond in an amount determined by the director, within the limits of 42-238, Idaho Code, covering all drillers and operators employed by the company, payable to the director for the licensing period. If the licensed driller drills wells as an individual and not for a company, a separate bond must be filed with the director. ( )

**a.** The amount of the bond will be determined by the director based on the applicant's compliance history, the size and depth of wells the applicant proposes to construct and is authorized to drill, the complexity of the wells, the resource to be recovered, the area of operation of the applicant, the number of drillers and operators employed by a company, and other relevant factors. ( )

**b.** The amount of the bond required prior to drilling in an area of drilling concern, and/or drilling monitoring wells, public water supply wells, or wells with a bottom hole temperature meeting the definition of a low temperature geothermal resource as defined by Section 42-233, Idaho Code, shall be the maximum amount allowed

by Section 42-238, Idaho Code. ( )

**c.** All bonds and continuation certificates shall commence on April 1 or date of licensure for a new company and be valid until March 31 of the year the driller or company license expires. Bonds and continuation certificates must be on a form approved or provided by the Department. ( )

**02. Cash Bonds.** ( )

**a.** Cash bonds shall be in a separate account readily accessible to the director for use as provided in these rules. The director will review cash bond proposals made by an applicant. Cash bonds shall be retained in financial institutions within the state of Idaho unless waived by the director. ( )

**b.** The director will retain cash bonds for two (2) years from the date the driller requests that the bond be released unless replaced by another bond or the director determines that all wells drilled by the driller satisfy well construction standards. The release of a cash bond must be requested in writing. ( )

**03. License Void Without Bond.** If the surety cancels a bond, the bond expires or otherwise becomes non-effective during the term of a license, the license shall immediately become void and of no further effect until an adequate replacement bond is received by the Department. ( )

**061. -- 069. (RESERVED)**

**070. CONTINUING EDUCATION (RULE 70).**

**01. Requirements.** Every licensed driller or operator must earn the applicable number of credit hours consistent with these rules. The credit hours must be obtained during the licensing period preceding the renewal application. ( )

**02. Earning Credit Hours.** Credit hours may be earned for time spent in attendance at workshops, seminars, short courses, and other educational opportunities devoted to well drilling or related subjects acceptable to the Director or approved by the continuing education committee (CEC) in compliance with the CEC guidelines. These may include completion of college courses, correspondence courses, or online courses. ( )

**03. Documentation.** Documentation in support of credit hours is the responsibility of each licensed driller and operator. Records required include but are not limited to: ( )

**a.** A log showing the type of course or activity, sponsoring organization, duration, instructor's name, and credit hours. ( )

**b.** Attendance verification records in the form of completion certificates or other official documents providing evidence of attendance and completion. ( )

**04. Submittal and Maintenance of Records.** Copies of continuing education records for the preceding license period shall be submitted with applications to renew licenses or permits. These records shall be maintained by the applicant for a period of three (3) years and shall be available for review by the Department at the request of the director. ( )

**05. Insufficient Credit Hours.** If at the time of renewal, the applicant is unable to provide verification of the required credit hours, the director will deny renewal of the driller's license or operator's permit, except as follows: ( )

**a.** The director may withhold action on an application for renewal for a period not to exceed ninety (90) days to allow the applicant to provide verification of the required credit hours. The applicant is not authorized to drill until the verification is provided and the renewal is issued. ( )

**b.** The director may exempt an applicant from all or part of the continuing education requirements if the applicant served on active duty in the armed forces of the United States for one hundred twenty (120) consecutive

days or more during the licensing period prior to filing the application for renewal; or the applicant suffered physical disability, serious illness, or other extenuating circumstances that prevented the applicant from earning the required units. ( )

**06. Out-of-State Residents.** The continuing education requirements for a driller's license or operator's permit are the same for both resident and non-resident applicants. ( )

**07. Responsibility for Education Development and Implementation.** The Department's responsibility to develop and implement a program for continuing education may, at the Director's discretion, be delegated through a memorandum of understanding (MOU) and/or contract to external providers such as the Idaho Ground Water Association (IGWA). ( )

**071. -- 089. (RESERVED)**

**090. ENFORCEMENT (RULE 90).**

**01. Violations.** Violations of these rules or Sections 42-235 or 42-238, Idaho Code, will be enforced as provided in Sections 42-238 and 42-1701B, Idaho Code. ( )

**02. Enforcement Procedures.** Department procedures and guidance for administrative enforcement are published on the Department's website and available upon request. ( )

**091. -- 999. (RESERVED)**

## PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

**Department or Agency:** Idaho Department of Water Resources

**Agency Contact:** Mathew Weaver

**Phone:** 208.287.4800

**Date:** September 12, 2022

**IDAPA, Chapter and Title Number and Chapter Name:**

IDAPA 37.03.10 Well Driller Licensing Rules

**Fee Rule Status:**  Proposed  Temporary

**Rulemaking Docket Number:** 37-0310-2201

### **STATEMENT OF ECONOMIC IMPACT:**

IDAPA 37.03.10 establishes the requirements and procedures for obtaining and renewing authorization to drill wells in the state of Idaho. The rules also establish the requirements and procedures for obtaining authorization to operate drilling equipment under the supervision of a licensed driller. The licensing rules are applicable to all individuals and companies drilling or contracting to drill wells. The rules also implement the application licensing fees set forth in Idaho Code, Section 42-238.

The proposed rule has no impact to the state general fund, dedicated funds, or federal funds. Permit application fees are controlled by statute rather than rule. Refer to I.C. § 42-238. As a result, the proposed rule does not change existing fees.