

Dear Senators SCHROEDER, Bair & Stennett, and  
Representatives STEVENSON, Paul Shepherd & Saylor:

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

1. IDAPA 37.02.03 – Water Supply Bank Rules (Docket No. 37-0203-1001);
2. IDAPA 37.03.10 – Well Driller Licensing Rules (Docket No. 37-0310-1001).

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 9-23-10. 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 10-22-10.

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 334-4845, or send a written request to the address or FAX number indicated on the memorandum attached.



# Legislative Services Office Idaho State Legislature

*Serving Idaho's Citizen Legislature*

Jeff Youtz  
Director

## MEMORANDUM

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

FROM: Katharine Gerrity, Principal Legislative Research Analyst, LSO *KAG*

DATE: September 3, 2010

SUBJECT: Idaho Department of Water Resources

1. IDAPA 37.02.03 – Water Supply Bank Rules (Docket No. 37-0203-1001)
2. IDAPA 37.03.10 – Well Driller Licensing Rules (Docket No. 37-0310-1001)

### 1. IDAPA 37.02.03 – Water Supply Bank Rules

The Idaho Department of Water Resources submits notice of proposed rule at IDAPA 37.02.03 – Water Supply Bank Rules. **This is a fee rule.** According to the Department, the proposed changes would increase the rental fee percentage retained by the Department from 10% to 25% and would also impose a lease application filing fee of \$250 per water right. The Department states that the proposed changes are necessary to pay for additional staff to operate the Bank and maintain the level of service essential to satisfy the purpose of the program.

Negotiated rulemaking was not conducted. The Department has scheduled a public hearing for 9:00 a.m. on Tuesday, September 21, 2010, at the Idaho Department of Water Resources in Boise.

The Department states that the only fees it currently receives associated with the Water Supply Bank result from the rental of water from the Bank. The Department retains 10% of the gross amount received from a rental. The remaining 90% goes to the water right holder. In addition, the Department notes that if a water right leased into the Bank is never rented, the Department is not compensated for the cost of processing the application and maintaining the lease.

The Department also states that interest in the Bank as a mechanism to protect rights from forfeiture will continue to increase as partial decrees are issued in the SRBA. The

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

Don H. Berg, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

Department indicates that under the current structure, a right holder receives full protection from forfeiture, but processing lease applications requires a considerable amount of staff time and there are no fees associated with leasing a water right into the Bank.

The Department has cited Section 42-1762, Idaho Code, as authority for this rulemaking. Members should note that Section 42-1762, Idaho Code, authorizes the Water Resource Board to adopt rules governing the Water Supply Bank. After reviewing minutes from the June 24 meeting of the Water Supply Bank subcommittee of the Water Resource Board, at which time this matter was discussed, I contacted Department personnel to inquire about the Board's subsequent meeting on July 23, 2010. (The minutes for that meeting are not yet posted.) Department personnel indicated that a vote was taken at the July meeting wherein the Board authorized the Department to move forward with this rulemaking. The rulemaking therefore appears to be authorized by Section 42-1762, Idaho Code.

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

The Idaho Department of Water Resources submits notice of proposed rule at IDAPA 37.03.10 – Well Driller Licensing Rules. According to the Department, the proposed rule changes reduce continuing education credits required for license renewal for licensed drillers from 16 to 14 units to coincide with the number of credits available through various seminars and workshops. The Department states that the proposed rule changes also update definitions and application requirements relating to experience and compliance history of applicants renewing or obtaining a license. Negotiated rulemaking was conducted. The rulemaking appears to be authorized pursuant to Section 42-238, Idaho Code.

cc: Idaho Department of Water Resources  
Monica VanBussum  
Chad Hersley  
Shelley Keen

## **IDAPA 37 - DEPARTMENT OF WATER RESOURCES**

### **37.02.03 - WATER SUPPLY BANK RULES**

#### **DOCKET NO. 37-0203-1001 (FEE RULE)**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5222, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 42-1762, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

**Tuesday, September 21, 2010 at 9:00 a.m.**

**Idaho Department of Water Resources  
322 East Front Street, Boise, Idaho  
6th floor conference room A**

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 statement in nontechnical language of the substance and purpose of the proposed rulemaking and the principle issues involved:

The Department of Water Resources (IDWR) manages the Water Supply Bank (Bank) for the Water Resource Board. The only fees currently associated with the Bank result from the rental of water from the Bank. In accordance with the Water Supply Bank Rules, IDWR retains 10% of the gross amount received from a rental. The remaining 90% is paid to the water right holder. However, under the current fee structure, the cost of operating the Bank exceeds the net revenue.

One of the more common uses of the Bank is to protect unused water rights from forfeiture. Interest in the Bank as a mechanism to protect water rights from forfeiture will continue to increase as partial decrees are issued in the Snake River Basin Adjudication. Many of those rights may no longer be in use and need protection from forfeiture. Under the current program structure, a right holder receives full protection from forfeiture, but processing lease applications requires a considerable amount of staff time and there are no fees associated with leasing a water right into the Bank. If a water right leased into the Bank is never rented from the Bank, IDWR is not compensated for the cost of processing the application and maintaining the lease.

IDWR does not have sufficient funding from the general appropriation to subsidize operation of the Bank for the Water Resource Board. IDWR has limited staff resources available to operate the Bank. Interest and activity in the Water Supply Bank has grown considerably over the past few years and IDWR has incurred a significant application backlog. If IDWR does not allocate additional staff resources to the program, the application backlog will continue to grow. The application backlog results in unfulfilled expectations for water users, loss of agricultural production, missed economic opportunity for local economies, and reduced tax revenue for the State of Idaho.

The proposed rule change is necessary to pay for additional staff to operate the Water Supply Bank and maintain the level of service essential to satisfy the purpose of the program.

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

1. Increase the rental fee percentage retained by IDWR from 10% to 25%.

Section 42-1763, Idaho Code, provides that the rental of water from the Water Supply Bank must be approved by the director of the Department of Water Resources. Subsection 37.02.03.035.01 of the Water Supply Bank Rules provides that 10% of the gross amount received from a rental shall be credited to the Department's Water Administration Account. In accordance with Section 42-1762, Idaho Code, the Board

has adopted rules governing the management, control and use of water to and from the water supply bank. The increase in the rental fee percentage being retained by IDWR is necessary for the orderly and proper management of the water supply bank and is consistent with Sections 42-1762, and 42-1763, Idaho Code, and the existing Water Supply Bank Rules.

2. Impose a lease application filing fee of \$250 per water right.

Section 42-1762(1), Idaho Code, directs the Water Resource Board to adopt rules and regulations governing the Water Supply Bank. Section 42-1762(2), Idaho Code, authorizes the Water Resource Board to contract with lessors and lessees to facilitate the rental of water. The lease application filing fee is being imposed as a rule is necessary to secure a source of money to provide an adequate workforce to efficiently operate and manage the water supply bank and is consistent with Sections 42-1762 and 42-1763, Idaho Code.

**FISCAL IMPACT:** 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 resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule or the hearing schedule, contact Monica VanBussum at 208-287-4907 or [monica.vanbussum@idwr.idaho.gov](mailto:monica.vanbussum@idwr.idaho.gov).

Anyone may submit written comments at the public hearing regarding this rulemaking. Any written comments submitted at a public hearing carry the same weight as oral testimony.

DATED this 30th day of July, 2010.

Shelley Keen, Section Manager  
Water Rights Section  
Idaho Department of Water Resources  
322 East Front Street  
P.O. Box 83720  
Boise, Idaho 83720-0098  
Phone: 208-287-4947  
FAX: 208-287-6700

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**THE FOLLOWING IS THE PROPOSED TEXT FOR FEE DOCKET NO. 37-0203-1001**

**025. ACQUISITION OF WATER RIGHTS FOR THE BOARD'S WATER SUPPLY BANK (RULE 25).**

**01. General.** The Board may purchase, lease, accept as a gift or otherwise obtain rights to natural flow or stored water and credit them to the Board's water supply bank. These water rights may then be divided or combined into more marketable blocks provided that there is no injury to other right holders, or enlargement of use of the water rights, and the change is in the local public interest. Any person proposing to sell or lease water rights to the

Board's water supply bank, or to otherwise make water available through the water supply bank for the purposes of Section 42-1763A, Idaho Code, shall file a completed application with the Director on a forms or in a format provided by the Department and provide such additional information as the Board or Director may require in evaluating the proposed transaction. The completed application form shall state the period of time a water right is offered for lease, or the period of time that storage water will be released for fish migration purposes in accordance with Section 42-1763A, Idaho Code, and the payment terms, if any, requested by the applicant. (7-1-93)

**02. Application.** Submitted with the completed application shall be: (7-1-93)

**a.** Evidence that the water right has been recorded through court decree, permit or license issued by the Department. If the right is included in an ongoing adjudication, a copy of the claim is required; (7-1-93)

**b.** Proof of current ownership of the water right by the applicant; (7-1-93)

**c.** Information that the water right has not been lost through abandonment, or forfeiture as defined by Section 42-222(2), Idaho Code; (7-1-93)

**d.** Evidence to demonstrate the relative availability of water in the source to fill the water right; and (7-1-93)

**e.** The written consent of such company, corporation or irrigation district to the proposed sale or lease must accompany the application if the right to the use of the water, or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district. (7-1-93)

**f.** An application filing fee of two hundred fifty dollars (\$250) per water right. ( )

**03. Review.** Upon receipt of the completed application the Director will review it for completeness and make such further review as he deems necessary to adequately brief the Board on the proposed transaction. (7-1-93)

**04. Inadequate Application.** If an application is not complete, the Director will correspond with the applicant to obtain the needed information. If the requested information is not returned in thirty (30) days, the application will no longer be considered a valid request to place a water right into the Board's water supply bank. (7-1-93)

**05. Consideration.** The Board may consider an application at any regular or special meeting. (7-1-93)

**06. Criteria.** The Board will consider the following in determining whether to accept an offered water right into the Board's water supply bank: (7-1-93)

**a.** Whether the applicant is the current owner, title holder or contract water user of the water right proposed to be transferred to the Board's water supply bank or has authority to act on behalf of the owner; (7-1-93)

**b.** Whether all necessary consents have been filed with the Board; (7-1-93)

**c.** Whether the information available to the Board indicates that the water right has been abandoned or forfeited; (7-1-93)

**d.** Whether the offering price or requested rental rate is reasonable; (7-1-93)

**e.** Whether acquisition of the water right will be contrary to the State Water Plan; (7-1-93)

**f.** Whether the application is in the local public interest as defined in Section 42-1763, Idaho Code; (7-1-93)

**g.** The probability of selling or renting the water right from the Board's water supply bank. (7-1-93)

**h.** Whether there are sufficient funds on hand to acquire the water right for the Board's water supply bank, provided that, if there are insufficient funds, or if in the opinion of the Board, existing funds should not immediately be expended for such acquisition, the Board may find that the water right should be acquired on a contingency basis, with payment to be made to the seller or lessor only after water is subsequently sold or rented from the Board's water supply bank, and (7-1-93)

**i.** Such other factors as determined to be appropriate by the Board. (7-1-93)

**07. Resolution of Board.** The Board may by resolution accept an application to sell or lease a water right to the Board's water supply bank, or to otherwise make water available through the water supply bank for the purposes of Section 42-1763A, Idaho Code. An application to lease together with the resolution accepting it becomes a lease and the water right is placed into the Board's water supply bank upon adoption of the resolution. A resolution accepting an application to sell a right to the Board's water supply bank will provide authority for the chairman of the Board to enter an agreement to purchase the water right. The resolution may include conditions of approval, including but not limited to, the following: (7-1-93)

**a.** A condition providing the length of time the water right will be retained in the Board's water supply bank. (7-1-93)

**b.** A condition describing the terms for payment to the owner of the water right and the sale or rental price from the Board's water supply bank. (7-1-93)

**c.** Other conditions as the Board determines appropriate, including a condition recognizing that water is being made available through the water supply bank pursuant to the provisions of Section 42-1763A, Idaho Code, for purposes of fish migration. (7-1-93)

**08. Placement of Water Right.** Effect of placement of a water right into the Board's water supply bank. (7-1-93)

**a.** Upon acceptance of a water right into the Board's water supply bank, the owner of the right may withdraw the right within thirty (30) days of acceptance into the bank if the owner does not agree with the conditions of acceptance. (7-1-93)

**b.** Upon acceptance of a water right into the Board's water supply bank, the owner of the water right is not authorized to continue the diversion and use of the right while it is in the Board's water supply bank, unless the water right is for hydropower and is placed in the Board's water supply bank to be released for salmon migration and power production purposes. (7-1-93)

**c.** A water right which has been accepted shall remain in the Board's water supply bank for the period designated by the Board unless removed by resolution of the Board. (7-1-93)

**d.** The owner of the water right shall remain responsible to take actions required to claim the water right in an adjudication or other legal action concerning the water right and to pay taxes, fees, or assessments related to the water right. (7-1-93)

**e.** The forfeiture provisions of Section 42-222(2), Idaho Code are tolled during the time period the water right is in the Board's water supply bank, pursuant to the provisions of Section 42-1764, Idaho Code. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**035. HANDLING OF MONEY ASSOCIATED WITH THE BOARD'S WATER SUPPLY BANK (RULE 35).**

Payments received by the Department from the sale or rental of water rights from the Board's water supply bank shall be handled as follows: (7-1-93)

**01. Credited Amount.** ~~Fee~~ Twenty-five percent (~~25~~25%) of the gross amount received from the sale or rental of a water right from the Board's water supply bank shall be credited to the Water Administration Account created by Section 42-238a, Idaho Code, or to the federal grant fund if the payment is received from a federal agency, for administrative costs of operating the Water Supply Bank. ~~(5-3-03)~~( )

**02. Excess Funds.** Any funds in excess of the amount needed to compensate the owner of the water right in accordance with the resolution accepting the water right into the Board's water supply bank and the administrative charge of Rule Subsection 035.01 shall be credited to the Water Management Account created by Section 42-1760, Idaho Code, for use by the Board for the purposes of Rule 1. (7-1-93)

**FEE CHANGE SUMMARY**

**IDAPA 37 – DEPARTMENT OF WATER RESOURCES**

**37.02.03 – Water Supply Bank Rules**

**DOCKET NO. ##-####-####**

**PENDING RULE FEE CHANGE SUMMARY**

**REASONS FOR THE FEE CHANGE:**

IDWR operates the Water Supply Bank for the Water Resource Board. IDWR does not have sufficient funding from the general appropriation to subsidize operation of the Bank for the Water Resource Board. IDWR has limited staff resources available to operate the Bank. Interest and activity in the Water Supply Bank has grown considerably over the past few years and IDWR has incurred a significant application backlog. If IDWR does not allocate additional staff resources to the program, the application backlog will continue to grow. The application backlog results in unfulfilled expectations for water users, loss of agricultural production, missed economic opportunity for local economies, and reduced tax revenue for the State of Idaho.

The proposed rule change is necessary to pay for additional staff to operate the Water Supply Bank and maintain the level of service essential to satisfy the purpose of the program.

**DESCRIPTIVE SUMMARY:** The following is a summary of the fee change:

1. Increase the rental fee percentage retained by IDWR from 10% to 25%.

Idaho Code § 42-1763 provides that the rental of water from the Water Supply Bank must be approved by the director of the Department of Water Resources. Rule 35.01 of the Water Supply Bank Rules provides that 10% of the gross amount received from a rental shall be credited to the Department's Water Administration Account. In accordance with Idaho Code 42-1762, the Board has adopted rules governing the management, control and use of water to and from the water supply bank. The increase in the rental fee percentage being retained by IDWR is necessary for the orderly and proper management of the water supply bank and is consistent with Idaho Code §§ 42-1762 and 42-1763 and the existing Water Supply Bank Rules.

2. Impose a lease application filing fee of \$250 per water right.

Idaho Code § 42-1762(1) directs the Water Resource Board to adopt rules and regulations governing the Water Supply Bank. Idaho Code § 42-1762(2) authorizes the Water Resource Board to contract with lessors and lessees to facilitate the rental of water. The lease application filing fee is being imposed as a rule is necessary to secure a source of money to provide an adequate workforce to efficiently operate and manage the water supply bank and is consistent with Idaho Code §§ 42-1762 and 42-1763.

**CONTACT PERSON**

Shelley Keen, Water Rights Section Manager - telephone (208) 287-4947

Shelley Keen  
Water Rights Section Manager  
Department of Water Resources  
322 E. Front St.  
P.O. Box 83720  
Boise, ID 83720-0098  
Phone: (208) 287-4947, Fax: (208) 287-6700

## **IDAPA 37 - DEPARTMENT OF WATER RESOURCES**

### **37.03.10 - WELL DRILLER LICENSING RULES**

**DOCKET NO. 37-0310-1001**

#### **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 procedures. The action is authorized pursuant to Section 42-238(6), 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 September 15, 2010.

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 nontechnical explanation of the substance and purpose of the proposed rulemaking:

Continuing education credits required for license renewal for licensed drillers will be reduced from the current sixteen units to fourteen units to coincide with the number of credits available through the various seminars and workshops.

Definitions will be updated to be consistent with those found IDAPA 37.03.09, "Well Construction Standards Rules," updated in 2009.

Application requirements relating to experience and compliance history of the applicant renewing or obtaining a license will be updated consistent with Idaho Code.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**FISCAL IMPACT:** 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 resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the [July 7, 2010 Idaho Administrative Bulletin, Vol. 10-7](#). A public meeting was held on the negotiated rulemaking on Friday, July 9, 2010 at 9:00 am.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Chad Hersley @ 287-4930.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 22, 2010.

DATED this July 30, 2010.

Chad Hersley, Technical Hydrogeologist  
Idaho Department of Water Resources  
322 East Front Street  
P.O. Box 83720  
Boise, Idaho 83720  
Telephone: 208-287-4930  
FAX 208-287-6700

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 37-0310-1001

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

Unless the context otherwise requires, the following definitions govern these rules. (4-5-00)

**01. Abandonment.** ~~Filling, plugging or otherwise rendering a well to a condition that it cannot be used to produce or dispose of water or other fluids and it is not a conduit for waste or contamination of ground water~~  
See Decommissioned Well. (4-5-00)(\_\_\_\_)

**02. Adequate Supervision.** Inspection and observation of each drilling operation and the associated drilling site by the licensed driller that has responsible charge during the critical phases of drilling to assure compliance with well construction standards and drilling permit conditions. (4-5-00)

**03. Applicant.** An individual that 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. (4-5-00)

**04. 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. (4-5-00)

**05. Auxiliary Equipment.** Powered equipment, other than the drill rig, used for grouting, installing or advancing casing, welding casings and screens, and other tasks necessary for drilling a well. (4-5-00)

**06. Board.** The Idaho Water Resource Board. (4-5-00)

**07. Bond.** A cash or surety bond obtained by a licensed driller or company payable to the director to provide funding for abandonment 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. (4-5-00)

**08. Bottom Hole Temperature of an Existing or Proposed Well.** The temperature of the ground water encountered in the bottom of a well or borehole. (\_\_\_\_)

~~09.~~ **Company.** A firm, co-partnership, corporation or association licensed in accordance with these rules to drill or contract to drill wells. (4-5-00)

~~10.~~ **Compliance History.** An applicant's record of compliance with the laws and rules of Idaho and other states relating to drilling of wells. The record includes, but is not limited to, the applicant's record of obtaining and complying with drilling permits; filing accurate and complete well driller's reports on time; adhering to well construction standards and other rules relating to drilling; and the number, nature and resolution of violations of laws, rules and conditions on licenses, operator's permits and drilling permits. (4-5-00)

~~11.~~ **Continuing Education.** Education or training pertinent to the drilling industry and the construction, modification or ~~abandonment~~ decommissioning of wells. (4-5-00)(\_\_\_\_)

~~12.~~ **Continuing Education Committee (CEC).** A committee ~~appointed by the director~~ whose purpose is to review and approve activities ~~acceptable for~~ related to continuing education credit. (4-5-00)(\_\_\_\_)

~~13.~~ **Credit Unit.** The unit of measurement for continuing education requirements. (4-5-00)

~~14.~~ **Critical Phases of Drilling.** Drilling tasks that require the added experience of a licensed driller to assure completion of the well in accordance with the well construction standards and conditions of drilling permits. These tasks include, but are not limited to, placement of required casings and seals, testing of casings and seals, and resolving problems such as casing or joint failures, heaving formations, lost circulation, and encountering high

pressure or high temperature water. (4-5-00)

**15. Decommissioned (Abandoned) Well.** Any well which has been permanently removed from service and filled or plugged in accordance with these rules so as to meet the intent of 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.** ( )

~~14~~**16. Department.** The Idaho Department of Water Resources. (4-5-00)

~~15~~**17. Director.** The director of the Idaho Department of Water Resources or his duly authorized representative. (4-5-00)

~~16~~**18. Drilling or Well Drilling.** The act of constructing a new well, or modifying, changing the construction, or ~~abandoning~~ decommissioning an existing well. (~~4-5-00~~)( )

~~17~~**19. Drilling Permit.** Authorization by the department to drill a well as provided in Section 42-235, Idaho Code. (4-5-00)

~~18~~**20. 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. (4-5-00)

**21. Global Positioning System (GPS).** A global navigational receiver unit and satellite system used to triangulate a geographic position. ( )

~~19~~**22. 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. (4-5-00)

~~20~~**23. Licensed Driller.** An individual having a license to drill wells and is authorized and required to supervise operators in the state of Idaho. (~~4-5-00~~)( )

~~21~~**24. 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 to not meet well construction standards. (4-5-00)

~~22~~**25. Operator.** An individual holding either a class I or class II operator's permit issued in accordance with these rules. (4-5-00)

~~23~~**26. Operator's Permit.** A certificate issued by the director upon meeting the requirements of Section 42-238, Idaho Code, and these rules allowing the holder to operate a drill rig as provided in these rules. (4-5-00)

~~24~~**27. Principal Driller.** A licensed driller in responsible charge of a company's drilling activities, which has been designated the principal driller by the company with the department. (4-5-00)

~~25~~**28. Responsible Charge.** The responsibility for direction and control of a drilling operation to meet the requirements of these rules including, but not limited to, the following activities: (4-5-00)

**a. Contracting to drill a well;** (4-5-00)

**b. Coordinate with property owner to locate a well to comply with applicable well construction standards;** (4-5-00)

- c. Setting up drilling equipment at the drilling site; (4-5-00)
- d. Drilling operations; and (4-5-00)
- e. Testing the adequacy of casing and seal; (4-5-00)
- f. Properly completing the well. ( )

**29.** Start Card. An expedited drilling permit process for the construction of cold water Single Family residential wells. ( )

**2630.** 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 considered to be obtained for the purpose of these rules. Well also means any waste disposal and injection well as defined by Section 42-3902, Idaho Code. (4-5-00)

**2731.** Well Construction Standards. IDAPA 37.03.09, "Well Construction Standards Rules," adopted by the board. (4-5-00)

**2832.** 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. (4-5-00)

**2933.** Well Log. A diary maintained at the drilling site ~~on forms acceptable to the department to record the daily progress and nature of drilling operations and that describe, in particular, pertinent geologic conditions, any problems encountered and methods used to resolve them~~ consistent with Section 42-238, Idaho Code. (4-5-00)( )

**3034.** Well Rig or Drill Rig. Any power-driven percussion, rotary, boring, digging, jetting, or augering machine used in the drilling of a well. (4-5-00)

011. -- 019. (RESERVED).

**020. APPLICABILITY OF LICENSING REQUIREMENTS (RULE 20).**

**01. Licensing Requirements.** A well shall only be drilled by or under the responsible charge 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. (4-5-00)

**02. Driller to Have Responsible Charge of Other Workers.** A licensed driller shall have responsible charge of all others engaged in a well drilling operation. (4-5-00)

**03. Operators to Have Permits.** An individual assisting a licensed driller whose duties include operation of a drill rig or auxiliary equipment shall possess an operator's permit as provided in these rules. If the driller is not present at the well site at all times that drilling operations are being conducted, one or more of those operating the equipment in the driller's absence shall have a class II operator's permit. The driller shall provide adequate supervision of class II operators. An individual having a class I operator permit shall be supervised by a licensed driller or a class II operator at all times when operating the drill rig or auxiliary equipment. (4-5-00)

**04. Laborer Exempted.** An individual whose duties at the drilling site do not include operation of the drill rig or auxiliary equipment at any time is not required to have either a driller's license or an operator's permit. (4-5-00)

**05. 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. (4-5-00)

06. **Drillers to Decommission (Abandon) Wells.** Only licensed drillers may decommission (abandon) wells, except that wells may be decommissioned (abandoned) by the owner after receiving a specific waiver from the Director. (4-5-00)(\_\_\_\_)

(BREAK IN CONTINUITY OF SECTIONS)

030. **OBTAINING A LICENSE FOR AN INDIVIDUAL DRILLER (RULE 30).**

01. **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: (4-5-00)

- a. The application fee required by Section 42-238, Idaho Code. (4-5-00)
- b. Written documentation of drilling experience, compliance history, and the names and addresses of three (3) references to confirm the applicant's drilling experience. (4-5-00)
- c. A list of all drill rigs used by or under the responsible charge of the applicant providing the make, model, and type. (4-5-00)
- d. The names and addresses of all licensed drillers and permitted operators that will work under the responsible charge of the applicant. (4-5-00)

02. **Experience Requirements.** (4-5-00)

a. An applicant shall have a minimum of ~~thirty~~ twenty-four (3024) months of drilling experience. 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. (4-5-00)(\_\_\_\_)

b. An applicant for driller's license shall submit evidence to establish that the applicant, as an operator or driller, has successfully constructed a sufficient number of wells within the preceding ~~thirty~~ twenty-four (3024) months to demonstrate competency. Evidence of this experience can be demonstrated by the submission of driller's reports bearing the applicant's signature, well reports upon which the driller having responsible charge attests that the applicant drilled the wells or other documentation acceptable to the director. (4-5-00)(\_\_\_\_)

c. Twelve (12) of the ~~thirty~~ twenty-four (3024) months drilling experience must have occurred within the five (5) year period immediately preceding the filing of the application. (4-5-00)(\_\_\_\_)

d. 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. (4-5-00)

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. The examination may include separate sections and shall test the applicant's knowledge of the following: (4-5-00)

a. Idaho statutes and rules relating to appropriation and use of ground water, well drilling, construction and use of injection wells and geothermal wells, and well driller licensing under the provisions of Title 42, Idaho Code. (4-5-00)

b. Land description by government lot, quarter-quarter, section, township and range, and the use of

portable GPS units. (4-5-00)( )

- c. Geologic material identification including the use of correct terminology in describing the geologic material. (4-5-00)
- d. Well construction principles relating to the proper design, construction, development, and abandonment of wells. (4-5-00)
- e. The occurrence, nature, and movement of ground water. (4-5-00)
- f. The use of various types of drill rigs and auxiliary equipment. (4-5-00)

**031. OBTAINING A LICENSE FOR A COMPANY (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: (4-5-00)

- ~~a.~~ ~~The application fee required by Section 42-238, Idaho Code.~~ (4-5-00)
- ~~ba.~~ The names and addresses of three (3) ~~disinterested~~ persons not affiliated with the company, whom the department can contact for information regarding the company's past well drilling operations, if any, and related business activities. (4-5-00)( )
- ~~eb.~~ A complete record of the compliance history of the company and the owners and employees of the company. (4-5-00)
- ~~ec.~~ 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. (4-5-00)
- ~~ed.~~ The names and addresses of drillers and operators presently employed. (4-5-00)
- ~~fe.~~ A list of all drill rigs and other related equipment owned or used by the company providing the make, model, and type. (4-5-00)

**02. Application Processing.** Applications received under this rule will be processed in accordance with Rule 33. (4-5-00)

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

**01. Application for Class I Operator's Permit.** A licensed driller or company proposing to employ a class I operator shall submit a completed application on a form provided by the director. The application shall: (4-5-00)

- a. Be accompanied by the fee required by Section 42-238, Idaho Code. (4-5-00)
- b. Be signed by the individual seeking the operator's permit and the licensed driller or principal driller of the company proposing to employ the operator. (4-5-00)

**02. Application for Class II Operator's Permit.** A licensed driller or company proposing to employ an individual who does not currently hold a class II operator's permit shall submit the following: (4-5-00)

- a. A completed application on a form provided by the department. (4-5-00)
- b. The fee required by Section 42-238, Idaho Code. No fee is required if the applicant is presently permitted as a class I operator, but the expiration date of the permit when converted to a class II operator's permit will remain as originally issued. (4-5-00)

c. Documentation that the operator has successfully constructed a sufficient number of wells, or has constructed wells for a sufficient length of time, or a combination of both to demonstrate competency. (4-5-00)

**03. Written Examination.** An examination is not required for a class I operator's permit. An otherwise qualified applicant for a class II operator's permit shall obtain a satisfactory score on an examination as provided in Rule 34. The examination may be comprised of separate sections and shall test the applicant's knowledge of the following: (4-5-00)

a. Idaho statutes and rules relating to appropriation and use of ground water, well drilling, construction and use of injection wells and geothermal wells, and well driller licensing under the provisions of Title 42, Idaho Code. (4-5-00)

b. Land description by government lot, quarter-quarter, section, township, and range, ~~and the use of portable GPS units.~~ (4-5-00)(\_\_\_\_)

c. Geologic material identification including the use of correct terminology in describing geologic material. (4-5-00)

d. Well drilling principles relating to proper design, construction, development, and abandonment of wells. (4-5-00)

e. The occurrence, nature, and movement of ground water. (4-5-00)

**04. Operator Drills Only for Licensed Driller or Company.** An operator shall only drill for the licensed driller or company approved by the director. If an operator changes employment to another licensed driller or company, an application for an operator's permit shall be filed as provided in this rule. ~~The director may waive the examination requirement if the operator has a history of complying with these rules and the well construction standards.~~ (4-5-00)(\_\_\_\_)

**05. Processing an Application for Operator's Permit.** The department will process an application for operator's permit in accordance with Rule 33. (4-5-00)

**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 ~~one hundred twenty~~ ninety (12090) days of sending the notice of the deficiency, the application ~~and supporting documents will be returned to the applicant~~ will be void. The application fee is not refundable. (4-5-00)(\_\_\_\_)

**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. (4-5-00)

**03. Issuance of Operator's Permits.** If the director determines that an applicant is qualified and has passed an examination, if required, the department will mail a notice and operator's permit card to the principal driller on behalf of the applicant. (4-5-00)

**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. ~~If the director, after consulting with the Driller's Advisory Committee, established in Rule 80, determines that the applicant's compliance history includes significant violations of well drilling laws and/or rules, including well construction standards, the director may deny the license or permit, refuse to issue for a specified time, or issue with conditions. The director may only consider the applicant's~~

~~compliance history for the five (5) year period immediately preceding the application being filed.~~ The Director may refuse to issue or renew a driller's license permanently or for a designated period of time 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." (4-5-00)(\_\_\_\_)

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

**01. Written Examination.** Written examinations will be offered at department offices on the first Monday of each ~~month~~ 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 ~~month~~ quarter and shall be scheduled with the department office originally testing the applicant. (4-5-00)(\_\_\_\_)

**02. Oral Examination.** Successful passage of an oral examination may satisfy all or a part of the written testing requirements under the following circumstances: (4-5-00)

**a.** The applicant requests an oral rather than a written examination and shows cause acceptable to the director why the examination should be oral rather than written. Applicants desiring to take the examination orally shall request that an oral examination be scheduled allowing at least fifteen (15) days to set an examination date. (4-5-00)

**b.** The director determines that because of the applicant's compliance history, additional testing is needed to determine the applicant's qualifications. (4-5-00)

**03. Examination Scoring.** The applicant shall pass each section of the examination with a score of seventy percent (70%) or higher. (4-5-00)

**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. (4-5-00)

**035. EXPIRATION AND RENEWAL OF LICENSE (RULE 35).**

**01. Expiration of Licenses.** ~~All licenses shall expire on March 31 during the second year after issuance.~~ All licenses 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. (4-5-00)(\_\_\_\_)

**02. Renewal Application.** A license may be renewed by submitting a license renewal application including the following: (4-5-00)

**a.** A completed application on a form provided by the department. An application to renew a license for an individual licensed driller shall be signed by the individual and an application to renew a license for a company shall be signed by the principal driller. (4-5-00)

**b.** The renewal fee required by Section 42-238, Idaho Code. (4-5-00)

**c.** A new bond or continuation certificate for an existing bond covering the licensed driller or company. (4-5-00)

**d.** If the application is for renewal of a license held by an individual, the application shall include verification that the applicant has obtained the required continuing education credits. (4-5-00)

**03. Continuing Education Requirements.** ~~Eight (8) credit units are required for renewal of a license for an individual for the licensing period beginning April 1, 2001. Sixteen~~ Fourteen (164) credit units are required for

renewal of a license for an individual for any licensing period beginning on or after April 1, ~~2002~~2011.

(4-5-00)( )

**04. Welding Competency.** A driller that has been issued a Notice of Violation for welding that does not comply with the well construction standards may be required to obtain a certificate of welding competency, from the American Welding Society or similar organization, ~~if the driller has been issued a Notice of Violation for welding that does not comply with the well construction standards.~~

(4-5-00)( )

**036. EXPIRATION AND RENEWAL OF AN OPERATOR'S PERMIT (RULE 36).**

**01. Expiration of Operator's Permits.** Class I and class II operator's permits shall expire on March 31 of the same year that the license of the licensed driller and company employing the operator expires. (4-5-00)

**02. Renewal Application.** An operator's permit may be renewed by submitting to the department an application for renewal including the following: (4-5-00)

**a.** A completed application on a form provided by the department. The operator seeking renewal and the driller under whose responsible charge the operator works shall sign the form. (4-5-00)

**b.** The renewal fee required by Section 42-238, Idaho Code. (4-5-00)

**c.** For renewal of a class II operator's permit, verification of the required continuing education credit units. (4-5-00)

**03. Continuing Education Required for Renewals.** ~~Eight credit units are required for renewal of a class II operator's permit for the two (2) year licensing period beginning April 1, 2001. Sixteen~~ Fourteen (14) credit units are required for renewal of a class II operator's permit for a licensing period beginning on or after April 1, ~~2002~~2011. (4-5-00)( )

**04. Welding Competency.** An operator's work that has resulted in a Notice of Violation for welding that does not comply with the Well Construction Standards may be required to obtain a certificate of welding competency, from the American Welding Society or similar organization, ~~if the operator's work has resulted in a Notice of Violation for welding that does not comply with the Well Construction Standards.~~ (4-5-00)( )

**037. PROCESSING APPLICATION TO RENEW LICENSE OR OPERATOR'S PERMIT (RULE 37).**

**01. Processing Applications for Renewal.** Applications for renewal will be processed in the order received by the department. 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. (4-5-00)

**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 abandonment of improperly constructed wells or is not otherwise in compliance with Sections 42-235 and 42-238, Idaho Code, and the applicable rules. (4-5-00)

**03. Compliance History.** If the Director determines, ~~after consulting the Driller's Advisory Committee,~~ 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. ~~Up to five (5) years of the most recent licensed or permitted history may be considered to determine compliance.~~ (4-5-00)( )

**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 or Rule 36 as appropriate. An applicant for renewal shall provide verification of earned credit units required for the entire period since the license or class II 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, an application for a new license shall be submitted in accordance with Rule 30 for an individual license, Rule 31 for a company or Rule 32 for an operator's permit. The director may waive the examination requirement if the applicant has been previously licensed or permitted in the state of Idaho. (4-5-00)

**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. (4-5-00)

**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, the Director will deny the application. When there are ~~significant~~ documented violations of well drilling laws and/or rules, including well construction standards, the Director ~~will~~ may consult with the Driller's Advisory Committee, created in accordance with Rule 80, prior to making a decision to issue a conditional license or operator's permit or to 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." ~~(4-5-00)~~(\_\_\_\_)

**038. -- 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: (4-5-00)

**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. (4-5-00)

**b.** Complete each well in compliance with IDAPA 37.03.09, "Well Construction Standards Rules," and drilling permit conditions. ~~(4-5-00)~~(\_\_\_\_)

**c.** Have a valid cash or surety bond in effect, as defined in Rule 60. (4-5-00)

**d.** Have the license number displayed in a conspicuous place on the drill rig using a metal identification plate provided by the department or other permanent marking approved by the director. The displayed license number shall represent the company or individual driller license under which the well is being drilled. One plate will be issued upon initial licensure with replacement and additional plates available for a fee. (4-5-00)

**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. (4-5-00)

**f.** Have at the drilling site the driller's license and drilling permit or other written authorization from the director to drill the well. (4-5-00)

**g.** Only drill wells in contaminated areas identified by the department or in areas of drilling concern so designated by the department with specific written authorization of the director. Verbal authorizations to drill and pre-approved drilling permits (start cards) do not authorize drilling in these areas. (4-5-00)

**h.** Only drill a public drinking water supply well, as defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," low temperature geothermal resource or geothermal resource well with specific written authorization from the director. Verbal authorizations and ~~pre-approved~~ start card permits (start cards) are not authorized for these uses. ~~(4-5-00)~~(\_\_\_\_)

i. 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. (4-5-00)

ii. Maintain a daily well log at the drilling site ~~on a form~~ acceptable to the department ~~bearing the initials of the driller or operator recording information during the work shift. The well log shall be available for review by department personnel at the well site. The following information shall be recorded:~~ 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. (4-5-00)

~~i.~~ ~~Borehole lithology;~~ (4-5-00)

~~ii.~~ ~~Water bearing zones;~~ (4-5-00)

~~iii.~~ ~~Static water levels;~~ (4-5-00)

~~iv.~~ ~~Bottom hole temperature;~~ (4-5-00)

~~v.~~ ~~Casing and sealing placement status;~~ (4-5-00)

~~vi.~~ ~~A description of problems encountered; and~~ (4-5-00)

~~vii.~~ The driller shall retain the well log for at least one (1) year after the driller's report is submitted to the department. (4-5-00)( )

jk. 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. (4-5-00)( )

kl. 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. (4-5-00)

lm. 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. (4-5-00)

**02. Companies.** Companies shall: (4-5-00)

**a.** Have a principal driller designated with the department at all times. (4-5-00)

**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. (4-5-00)

**c.** Maintain a bond in force at all time as required in Rule 60. (4-5-00)

**03. Operators.** Operators shall: (4-5-00)

**a.** Have in their possession a valid operator's permit while drilling wells. (4-5-00)

**b.** Only drill wells as authorized by the operator's permit. (4-5-00)

- c. Maintain a complete and accurate well log at the drilling site. (4-5-00)
- d. Co-sign with the driller a driller's report upon completion of the well. (4-5-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

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

**01. Requirements.** Every licensed driller ~~and~~ or permitted operator ~~shall~~ must have earned at the time of ~~license or permit~~ renewal the applicable number of credit units required by these rules. The credit units shall have been obtained during the licensing period preceding the application for renewal. (4-5-00)(\_\_\_\_)

**02. Earning Credit Units.** ~~A~~ Credit units ~~is~~ may be earned for ~~each hour the applicant devotes to time spent in~~ attendance at workshops, seminars, short courses, and other educational opportunities devoted to drilling or related subjects acceptable to the Director and approved by the continuing education committee (CEC) and in compliance with the CEC guidelines. These may include completion of college courses, correspondence courses, videotaped courses, ~~active participation in professional organizations,~~ and other endeavors such as authoring appropriate publications. (4-5-00)(\_\_\_\_)

**03. ~~Record Keeping~~ Documentation.** Documentation to support credit units claimed is the responsibility of the licensed driller and permitted operator. Records required include but are not limited to: (4-5-00)(\_\_\_\_)

a. A log showing the type of activity claimed, sponsoring organization, duration, instructor's name, and credit units. (4-5-00)

b. Attendance verification records in the form of completion certificates or other official documents providing evidence of attendance and completion. (4-5-00)(\_\_\_\_)

**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 for a period of three (3) years and shall be available for review by the department at the request of the director. (4-5-00)

**05. Insufficient Credit Units.** If at the time of renewal, the applicant is unable to provide verification of the required credit units, the director will deny renewal of the driller's license or operator's permit, except as otherwise provided in the following: (4-5-00)

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 units. The applicant is not authorized to drill until the verification is provided and the renewal is issued. (4-5-00)

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. (4-5-00)

c. A licensed driller or operator who has chosen to allow his license or permit to expire or otherwise become of no effect shall be exempt from continuing education requirements unless an application for renewal is filed less than three (3) years after the license or permit expired or otherwise became of no effect. (4-5-00)

**06. Out-of-State Residents.** The continuing education requirements for a non-resident applicant for a

license or operator's permit shall be the same as for resident applicants. (4-5-00)

**07. Responsibility for Education Development and Implementation.** The Idaho Ground Water Association (IGWA) is delegated responsibility to develop and implement a program for continuing education for review and approval by the director. (4-5-00)

**071. CONTINUING EDUCATION COMMITTEE ~~(CEC)~~ CONTINGENCY PLAN (RULE 71).**  
Should the IGWA not submit a suitable program for continuing education or that program not be approved by the director the CEC shall be organized and administered as follows: memorandum of understanding (MOU) and/or the contract between the department and the IGWA be breached, revoked, or not renewed, the CEC shall be organized and administered by the department. (4-5-00)(\_\_\_\_)

**01. Purpose and Duties.** ~~The CEC shall provide recommendations to the director concerning the amount and nature of continuing education required to maintain and improve driller and operator competency. The CEC shall provide recommendations to the director concerning the credit value to be assigned to continuing education opportunities. The CEC shall also encourage driller association(s) and the education and professional communities to make additional opportunities available. The director shall determine the value for all activities submitted to fulfill continuing education requirements.~~ (4-5-00)

**02. Committee Membership.** ~~The membership of the CEC shall be selected by the director from nominations provided by state driller association(s) and others. The CEC membership shall include:~~ (4-5-00)

**a.** ~~Three (3) individuals holding or who have held an Idaho well driller's license, at least two (2) of which shall hold a currently valid license.~~ (4-5-00)

**b.** ~~One (1) individual from the department.~~ (4-5-00)

**c.** ~~One (1) individual from either the higher education community or a consulting firm involved in designing wells.~~ (4-5-00)

**03. Terms.** ~~The committee members will be appointed to serve a term of two (2) or three (3) years, but may serve no more than six (6) years in any given ten (10) year period.~~ (4-5-00)

**04. Reimbursement.** ~~Travel and per diem expenses for members attending official meetings of the CEC will be paid in accordance with department policy. The department will establish meeting dates and locations for the CEC.~~ (4-5-00)

**072. -- 079. (RESERVED).**

**080. DRILLER'S ADVISORY COMMITTEE (RULE 80).**

**01. Selection and Duties.** The Director may appoint a driller's advisory committee from the list of drillers holding valid licenses. The Director will solicit appointment recommendations from the IGWA and other licensed drillers. The Director will determine the term of appointment for members of the committee. The committee shall provide recommendations and suggestions concerning revision of these rules, the minimum standards for well construction, significant violations and other matters regarding well drilling. The committee members shall serve on a voluntary basis without compensation. The department will hold at least one (1) meeting of the advisory committee per year and will hold additional meetings as needed at the discretion of the Director. (4-5-00)(\_\_\_\_)

**02. Reimbursement.** Travel costs shall be paid to members of the advisory committee for travel and per diem and for costs associated with attendance of advisory committee meetings held by the department. Reimbursement shall be based on existing department policy covering travel and per diem expenses. (4-5-00)