

TITLE 39  
HEALTH AND SAFETY

CHAPTER 5  
AQUIFER PROTECTION DISTRICTS

39-501. PURPOSE. The protection of ground water quality is essential for life, health and furthering matters of commerce. Multiple public agencies have regulatory jurisdiction over various aspects of everyday human activity that can and do pose risks to vital underground water supplies. Enforcement of current rules and regulations, implementation of educational programs, and inspection of potential sources of pollution require funding beyond the budgets of agencies charged with these responsibilities. The coordination of work by public agencies to assist in the prevention of degradation of valuable ground water can be a cost-effective alternative to after the fact remediation of a degraded resource. Certain ground water quality problems cannot be remedied, only prevented. The purposes of establishing an aquifer protection district include protection of the state's economy, maintaining a water supply that does not require extensive treatment prior to human consumption or commercial use, avoiding the economic costs of remedial action, and protecting the well-being of communities that depend upon aquifers for essential human needs.

[39-501, added 2006, ch. 304, sec. 1, p. 937.]

39-502. GOVERNING BOARD. For purposes of this chapter, the term "governing board" means the board of county commissioners of a county creating, or participating in, an aquifer protection district or multicounty aquifer protection district.

[39-502, added 2006, ch. 304, sec. 1, p. 938.]

39-503. AQUIFER PROTECTION DISTRICT AUTHORIZED. (1) In counties where a state designated sensitive resource aquifer has been declared as prescribed by rules of the department of environmental quality, and such designation was made prior to the enactment of this act, the board of county commissioners of any such county may, upon petition, hold an election for establishment of, or participation in, an aquifer protection district as authorized by this chapter.

(2) A multicounty aquifer protection district may be established by a joint powers agreement as authorized by chapter 23, title 67, Idaho Code, provided all participating counties have held elections and voted in favor of establishment of, or participation in, an aquifer protection district. Every reference to a county in this chapter may be applicable to the multiple counties that participate in a multicounty aquifer protection district.

(3) An aquifer protection district is a political subdivision of the state of Idaho subordinate to the county or counties in which it is formed. The governing board of an aquifer protection district is authorized to provide coordination and funding for aquifer protection activities carried out by county government, other political subdivisions, state agencies, and private individuals or interests. The boundaries of an aquifer protection district shall conform as nearly as practicable to boundaries of the subject aquifer, the aquifer's recharge areas, and areas that may be dependent upon the aquifer as a source of water.

[39-503, added 2006, ch. 304, sec. 1, p. 938.]

39-504. PETITIONS -- ELECTIONS -- MODIFICATION -- DISSOLUTION -- AUTHORITY. (1) The establishment of, or participation in, an aquifer protection district may be initiated by the filing of a petition signed by not fewer than fifty (50) qualified electors of any county in which an eligible aquifer is located and who reside within the boundaries of the proposed aquifer protection district. The petition shall be filed with the county clerk of the county in which the signers of the petition are resident. The petition shall designate the proposed boundaries of the aquifer protection district.

(2) Upon the filing of the petition, the county clerk shall promptly examine the petition and certify whether the required number of qualified petitioners have signed the petition. If the number of petition signers is sufficient, the county clerk shall transmit the certified petition to the board of county commissioners.

(3) Upon receipt of a duly certified petition the board of county commissioners shall give notice of an election to be held, which election shall be held at the same time as the primary or general election, in such proposed district for the purpose of determining whether or not the proposed district shall be established or whether or not the county shall participate in a district. Such notice shall include the date and hours of the election, the polling places, the general purposes of the proposed district, a description of lands to be included in the proposed district, and a statement that a map of the proposed district is available in the office of the board of county commissioners. The notice shall be published once each week for three (3) consecutive weeks prior to such election in a newspaper of general circulation within the county.

(4) The election shall be held and conducted consistent with the provisions of chapter 14, title 34, Idaho Code. The board of county commissioners shall appoint three (3) judges of election, one (1) of whom shall act as clerk for the election. At such election the electors shall vote for or against the establishment of, or participation in, the district.

(5) The judges of election shall certify the returns of the election to the board of county commissioners. If a majority of the votes cast at said election are in favor of the establishment of, or participation in, the district, the board of county commissioners shall declare the district established and give it a name by which, in all proceedings, it shall thereafter be known.

(6) Procedures for boundary modification or dissolution of a district created pursuant to this section shall be in substantial compliance with the provisions for petition and election provided in this section.

(7) In the event a board of county commissioners declares a district established pursuant to the procedures prescribed by this section, the district shall be recognized as a legally established political subdivision of the state of Idaho. Unless otherwise limited by law, districts are authorized to work with and across the boundaries of all political subdivisions of the state of Idaho that are wholly or partially located within the external boundaries of the established aquifer protection district. Providing protection of a state-designated sensitive resource aquifer is a governmental function.

[39-504, added 2006, ch. 304, sec. 1, p. 938.]

39-505. GOVERNANCE -- POWERS AND DUTIES. In addition to powers and duties otherwise set forth in this chapter, governing boards shall have the following powers and duties:

(1) To contract with public agencies and private individuals or entities to carry out district responsibilities and accomplish purposes of the district.

(2) To apply for and receive grants to carry out aquifer protection district purposes.

(3) To sue and be sued, and be a party to suits, actions and proceedings.

(4) Except as otherwise provided in this chapter, to enter into contracts and agreements, cooperative and otherwise, affecting the affairs of the district, including contracts with the United States of America, the state of Idaho and any of its agencies or instrumentalities, public or private corporations, municipalities and other governmental subdivisions, and to cooperate with any one (1) or more of these entities to achieve the purposes of the district.

(5) To borrow money, provided however, that borrowing shall be limited to the Idaho water resource board revolving development fund pursuant to section 42-1756, Idaho Code.

(6) To have the management, control and supervision of all business and affairs of the district.

(7) To hire and retain agents, consultants and professional advisers concerning district matters.

(8) To fix, and from time to time to increase or decrease, aquifer protection fees or charges for services or facilities furnished by the district, for the payment of any current charges or indebtedness of the district.

(9) To adopt and amend resolutions not in conflict with the constitution and laws of the state for carrying on the business, objectives and affairs of the board and of the district.

(10) To have and exercise all rights and powers necessary or incidental to or implied from the specific powers granted herein. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this chapter.

[39-505, added 2006, ch. 304, sec. 1, p. 939.]

39-506. POWERS NOT GRANTED. An aquifer protection district shall have no independent regulatory powers and no power to levy taxes. Such restriction shall not otherwise limit the police powers of the board of county commissioners.

[39-506, added 2006, ch. 304, sec. 1, p. 940.]

39-507. POLICY AND BUDGET ADVISORY COMMITTEE. Subsequent to formation of an aquifer protection district, and as it regards the aquifer protection district, the governing board shall appoint a policy and budget advisory committee comprised of not less than nine (9) nor more than eleven (11) members. The policy and budget advisory committee shall be comprised of residents of the aquifer protection district boundaries with the following characteristics:

- (1) A representative of a municipal domestic water provider;
- (2) A representative of a water district;
- (3) A representative of an irrigation district;
- (4) A representative of a private water system;
- (5) A representative of a well recognized business organization;
- (6) A representative of a well recognized environmental organization;
- (7) A representative of the agricultural community;

- (8) A hydrologist or engineer; and
- (9) A citizen consumer.

The responsibilities of the policy and budget advisory committee shall include making recommendations to the governing board for work program elements, proposing methods of cooperation among public agencies with regulatory jurisdiction concerning aspects of aquifer protection, developing an aquifer protection budget recommendation to forward to the governing board and carrying out such other aquifer protection activities as the governing board, resident and committee member interest, and appropriated budget allow. In addition to the budget hearing required by section 39-508, Idaho Code, the budget and policy advisory committee shall conduct at least one (1) public hearing during each fiscal year to solicit public comment regarding aquifer protection needs. Notice of such hearing shall, at a minimum, comply with the standards for legislative hearings as provided by law. Any vacancies on the policy and budget advisory committee shall be filled in the same manner as the initial appointment.

[39-507, added 2006, ch. 304, sec. 1, p. 940.]

39-508. AQUIFER PROTECTION DISTRICT FUNDS -- FEES -- BUDGET. (1) Funds received and expended in the name of an aquifer protection district shall be budgeted, managed and audited in the same manner as funds of a county. Any such revenues and expenditures shall be accounted for separate from other county funds. The reasonable expenses of managing aquifer protection district fiscal and legal affairs are legitimate costs of district operation and use of county systems for fee collection is authorized hereby. The fiscal year for an aquifer protection district shall conform to the fiscal year for counties.

(2) Fees reasonably related to the actual cost of services rendered by an aquifer protection district may be charged to owners of land benefitted by the availability of water from the aquifer to be protected by the district. The maximum fee authorized per dwelling unit shall not exceed twelve dollars (\$12.00) annually. The maximum charge for nonresidential uses shall not exceed twice the maximum authorized residential fee, and such nonresidential fee shall be established and calculated in a manner that is roughly proportional to aquifer use or other measure of benefits derived from protection of the aquifer.

(3) Each fiscal year the budget and policy advisory committee shall conduct a public budgetary process, including at least one (1) public hearing concerning a proposed aquifer protection district budget, before recommending a proposed budget to the governing board. Any such recommendation shall be transmitted to the governing board prior to the date of advertising the annual county budget hearing. The budget for an aquifer protection district shall be considered by the governing board in the course of its annual budget process. An aquifer protection district shall follow the financial accountability standards and limitations applicable to counties.

[39-508, added 2006, ch. 304, sec. 1, p. 941.]