

IDAPA 37 – DEPARTMENT OF WATER RESOURCES

Planning and Projects Bureau

37.02.01 – Comprehensive State Water Plan Rules

Who does this rule apply to?

Idaho Water Resource Board.

What is the purpose of this rule?

These rules establish procedures used by the Idaho Water Resource Board for designating a waterway as an interim protected river; adopting a comprehensive plan for a waterway, and providing adequate notice of any petitions filed or actions contemplated pursuant to the State Comprehensive Water Plan Act.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

Water Resource Board:

- [Section 42-1730, Idaho Code](#) – Statement of Purpose
- [Section 42-1731, Idaho Code](#) – Definitions
- [Sections 42-1734A through 1734I, Idaho Code](#) – Comprehensive State Water Plan

Who do I contact for more information on this rule?

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37.02.01 – COMPREHENSIVE STATE WATER PLAN RULES

000. LEGAL AUTHORITY (RULE 0).

The Board promulgates these rules pursuant to authority provided by Sections 42-1734D and 42-1734A, Idaho Code. (3-31-22)

001. SCOPE (RULE 1).

The purpose of these rules is to establish the procedures and notice used by the Idaho Water Resource Board for designating a waterway as an interim protected river. (3-31-22)

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

01. Alteration. Any activity using mechanized equipment that moves or overturns gravel or earth. (3-31-22)

02. Board. The Idaho Water Resource Board. (3-31-22)

03. Hydropower Project. Any development that uses a flow of water as a source of electrical or mechanical power, or that regulates the flow of water for the purpose of generating electrical or mechanical power, including powerhouses, dams, water conduits, transmission lines, water impoundments, roads, and other appurtenant works and structures. (3-31-22)

04. Natural River. A waterway that possesses outstanding fish and wildlife, recreation, geologic or aesthetic values, is free of substantial existing man-made impoundments, dams or other structures, and has riparian areas that are largely undeveloped, although accessible in places by trails and roads. (3-31-22)

05. Recreational River. A waterway that possesses outstanding fish and wildlife, recreation, geologic or aesthetic values, and might include some man-made development within the waterway or within the riparian area of the waterway. (3-31-22)

06. Riparian Area. That area within one hundred (100) feet of the mean highwater mark of a waterway. (3-31-22)

07. Stream Bed. A natural water course of perceptible extent with definite bed and banks that confines and conducts the water of a waterway that lies below and between the ordinary high water mark on either side of that waterway. (3-31-22)

08. Waterway. A river, stream, creek, lake or spring, or a portion thereof, and does not include any tributary thereof. (3-31-22)

011. -- 014. (RESERVED)

015. INTERIM PROTECTED RIVERS (RULE 15).

01. Board Initiative. The board may consider a waterway for designation as an interim protected river upon its own initiative. (3-31-22)

02. Petitions. The board will accept petitions requesting the board to designate a waterway as an interim protected river only from a state agency. The acceptability of a petition requiring clarification or corrections shall be determined by the director. (3-31-22)

03. Form. Petitions shall be in writing, signed by the agency head, and shall describe the waterway, or portion thereof, requested to be designated as an interim protected river. (3-31-22)

04. Filing. No petition will be considered by the board at a board meeting unless it is filed at least thirty (30) days prior to such board meeting. (3-31-22)

05. Board Agenda. The board agenda will include time for representatives of the petitioning agency to describe the agency's reasons for seeking interim protection for that waterway. (3-31-22)

06. Board Determination. At a board meeting the board shall determine whether the nominated

waterway merits designation as an interim protected river. The determination shall be based on a finding that:
(3-31-22)

a. It is probable that the waterway would be designated a protected river in the comprehensive state water plan; and
(3-31-22)

b. Interim protected river status is necessary to protect the values that would support such waterway's designation as a protected river in a comprehensive state water plan.
(3-31-22)

016. -- 024. (RESERVED)

025. PETITIONS TO EXEMPT SPECIFIC PROJECTS FROM INTERIM PROTECTED RIVERS (RULE 25).

01. Petitions to Exempt Specific Action or Projects. Petitions proposing exemption for a specific project from the interim protected river designation shall be in writing, signed by the owner, operator, or designated official of the petitioner, and describe the proposed action or project and its location. No petition will be considered by the board at a board meeting unless filed at least thirty (30) days prior to such board meeting.
(3-31-22)

02. Board Agenda. The board agenda will include time for the petitioner or his representative to describe how the proposed action or project would not significantly impair the values supporting a waterway's designation as an interim protected river. The burden shall be on the petitioner to show that the proposed action will not impair those values supporting a waterway's designation as an interim protected river.
(3-31-22)

026. -- 999. (RESERVED)