

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 402

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO INJECTION WELLS; AMENDING SECTION 42-3902, IDAHO CODE, TO RE-
2 MOVE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
3 42-3903, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION
4 42-3905, IDAHO CODE, TO REMOVE A PROVISION REGARDING CLASS II INJECTION
5 WELLS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 42-3908,
6 IDAHO CODE, TO REMOVE CERTAIN PROVISIONS FOR CLASS II INJECTION WELLS
7 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 42-3911, IDAHO
8 CODE, TO REVISE PROVISIONS REGARDING PENALTIES; AND DECLARING AN EMER-
9 GENCY AND PROVIDING AN EFFECTIVE DATE.
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 42-3902, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 42-3902. DEFINITIONS. Whenever used in this chapter:

15 (1) "Aquifer" means any geologic formation that will yield water to a
16 well in sufficient quantities to make production of water from the formation
17 feasible for beneficial use, except when the water in such formation results
18 solely from injection through a deep or shallow injection well.

19 ~~(2) "Class II injection well" means a deep injection well used to inject
20 fluids:~~

21 ~~(a) Which are brought to the surface in connection with natural gas
22 storage operations, or conventional oil or natural gas production and
23 may be commingled with waste waters from gas plants, dehydration sta-
24 tions, or compressor stations which are an integral part of production
25 operations, unless those waters are classified as a hazardous waste at
26 the time of injection;~~

27 ~~(b) For enhanced recovery of oil or natural gas; or~~

28 ~~(c) For storage of hydrocarbons which are liquid at standard tempera-
29 ture and pressure.~~

30 ~~(3) (2) "Deep injection well" means an injection well which that is more
31 than eighteen (18) feet in vertical depth below land surface.~~

32 ~~(4) (3) "Director" means the director of the department of water re-
33 sources.~~

34 ~~(5) (4) "Drinking water source" means an aquifer which that contains
35 water having less than ten thousand (10,000) mg/l total dissolved solids and
36 has not been exempted from this designation by the director of the department
37 of water resources.~~

38 ~~(6) (5) "Fluid" means any material or substance which that flows or
39 moves whether in a semisolid, liquid, sludge, gaseous or any other form or
40 state.~~

1 ~~(7)~~ (6) "Formation" means a body of consolidated or unconsolidated rock
2 characterized by a degree of lithologic homogeneity ~~which~~ that is mappable
3 at the earth's surface or traceable in the subsurface.

4 ~~(8)~~ (7) "Hazardous waste" means any fluid or combination of fluids, ex-
5 cluding radioactive wastes, ~~which~~ that because of quantity, concentration
6 or characteristics (physical, chemical or biological) may:

7 (a) Cause or significantly contribute to an increase in deaths or an in-
8 crease in serious, irreversible or incapacitating reversible illness;
9 or

10 (b) Pose a substantial threat to human health or to the environment
11 if improperly treated, stored, disposed of, or managed. Such wastes
12 include, but are not limited to, materials ~~which~~ that are toxic, cor-
13 rosive, ignitable, or reactive, or materials ~~which~~ that may have
14 mutagenic, teratogenic, or carcinogenic properties, but do not include
15 solid or dissolved material in domestic sewage or solid or dissolved
16 material in irrigation return flows.

17 ~~(9)~~ (8) "Injection" means the subsurface emplacement of fluids through
18 an injection well, but excludes the following:

19 (a) The underground injection of natural gas for purposes of storage;
20 and

21 (b) The underground injection of fluids or propping agents, other than
22 diesel fuels, pursuant to hydraulic fracturing operations related to
23 oil, gas or geothermal production activities.

24 ~~(10)~~ (9) "Injection well" means any feature that is operated to allow
25 injection ~~which~~ that also meets at least one (1) of the following criteria:

26 (a) A bored, drilled or driven shaft whose depth is greater than the
27 largest surface dimension;

28 (b) A dug hole whose depth is greater than the largest surface dimen-
29 sion;

30 (c) An improved sinkhole; or

31 (d) A subsurface fluid distribution system.

32 Provided however, that "injection well" does not mean or include any well
33 used for oil, gas or geothermal production activities, other than one into
34 which diesel fuels are injected pursuant to hydraulic fracturing opera-
35 tions.

36 ~~(11)~~ (10) "Irrigation waste water" means excess surface water from
37 agricultural fields generated during any agricultural operation, including
38 runoff of irrigation tailwater, as well as natural drainage resulting from
39 precipitation, snowmelt and floodwaters.

40 ~~(12)~~ (11) "Licensed driller" means any person holding a valid license to
41 drill water wells in Idaho as provided and defined in section 42-238, Idaho
42 Code.

43 ~~(13)~~ (12) "Operate" means to allow fluids to enter an injection well by
44 action or by inaction of the operator.

45 ~~(14)~~ (13) "Operator" means any individual, group of individuals, part-
46 nership, company, corporation, municipality, county, state agency, taxing
47 district or federal agency who operates or proposes to operate any injection
48 well.

49 ~~(15)~~ (14) "Owner" means any individual, group of individuals, partner-
50 ship, company, corporation, municipality, county, state agency, taxing dis-

1 trict, or federal agency owning land on which any injection well exists or is
2 proposed to be constructed.

3 ~~(16)~~ (15) "Radioactive material" means any material, solid, liquid or
4 gas ~~which that~~ emits radiation spontaneously.

5 ~~(17)~~ (16) "Radioactive waste" means any fluid ~~which that~~ contains ra-
6 dioactive material in concentrations ~~which that~~ exceed those established
7 for discharges to water by 10 CFR 20.

8 ~~(18)~~ (17) "Sanitary waste" means any fluid generated through residen-
9 tial (domestic) activities, such as food preparation, cleaning and personal
10 hygiene. The term does not include industrial, municipal, commercial or
11 other nonresidential process fluids.

12 ~~(19)~~ (18) "Shallow injection well" means an injection well ~~which that~~ is
13 less than or equal to eighteen (18) feet in vertical depth below land sur-
14 face.

15 ~~(20)~~ (19) "Surface runoff water" means runoff water from the natural
16 ground surface and cropland. Runoff from urbanized areas, such as streets,
17 parking lots, airports, and runoff from animal feedlots, agricultural pro-
18 cessing facilities and similar facilities are not included within the scope
19 of this term.

20 SECTION 2. That Section 42-3903, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 42-3903. DEEP INJECTION WELLS -- CONSTRUCTION -- MODIFICATION -- USE
23 -- PERMIT REQUIRED. No new deep injection well shall be constructed after the
24 effective date of this act unless a permit therefor has been issued by the di-
25 rector of the department of water resources. No deep injection well existing
26 on the effective date of this act shall be modified after the effective date
27 of this act unless a permit therefor has been issued by the director. No deep
28 injection well existing on the effective date of this act shall continue to
29 be used and maintained ~~after January 1, 1974,~~ unless a permit ~~therefor~~ has
30 been issued by the director.

31 SECTION 3. That Section 42-3905, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 42-3905. FEES -- TRANSMITTED TO STATE TREASURER. (1) Fees provided for
34 in this section shall accompany all applications and notice of construction
35 forms. No such application or notice of construction form shall be accepted
36 unless accompanied by a filing fee as provided in this section. A separate
37 application shall be filed for each deep injection well and each shallow in-
38 jection well for which a permit is required by the rules adopted by the water
39 resource board. The filing fee for each deep injection well requiring a per-
40 mit shall be ~~two thousand five hundred dollars (\$2,500) for a class II injec-~~
41 ~~tion well and one hundred dollars (\$100) for all other deep injection wells,~~
42 payable to the department of water resources.

43 (2) The notice of construction form for each new shallow injection well
44 shall be accompanied by a fee of seventy-five dollars (\$75.00) payable to the
45 department of water resources.

46 (3) All fees received under the provisions of this chapter are deemed to
47 be nonrefundable and shall be transmitted to the state treasurer for deposit

1 in the water administration ~~fund~~ account as established under the provisions
 2 of section 42-238a, Idaho Code, except that fees submitted with applications
 3 that do not require a permit shall be returned to the applicant. Fees col-
 4 lected may be used by the director of the department of water resources to
 5 carry out the provisions of this chapter.

6 SECTION 4. That Section 42-3908, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 42-3908. PERMIT APPROVING CONSTRUCTION AND USE -- CONDITIONS -- RE-
 9 JECTION OF APPLICATION. (1) If the director of the department of water re-
 10 sources determines the use of the proposed or existing injection well will
 11 not affect the rights of others to use water for beneficial purposes, the di-
 12 rector shall issue a permit approving the construction, modification or con-
 13 tinued operation of such well. Such permit shall contain conditions, if any,
 14 determined to be necessary to protect the public interest in the ground wa-
 15 ter resource, including, but not limited to, the method and manner of opera-
 16 tion of the injection well, the period during which the injection well may be
 17 operated, a date when such permit shall expire, and periodic reports to the
 18 department of water resources of the quality and quantity of the fluids in-
 19 jected. No deep injection well or shallow injection well, as may be required
 20 by rules and regulations adopted under this chapter, shall be used unless a
 21 valid permit is in effect in accordance with this chapter.

22 ~~The director shall require, as a condition of every class II injection~~
 23 ~~well permit, that every person who engages in the construction, modification~~
 24 ~~or operation of a well provides evidence of good and sufficient security in~~
 25 ~~the form of a bond, letter of credit or other surety acceptable to the direc-~~
 26 ~~tor that ensures that the applicant performs the duties required pursuant to~~
 27 ~~this chapter and properly decommission any well covered by such permit. Good~~
 28 ~~and sufficient security for each injection well shall be in the amount of ten~~
 29 ~~thousand dollars (\$10,000) plus one dollar (\$1.00) per foot of depth. The~~
 30 ~~security shall be conditioned upon the performance of the owner's or opera-~~
 31 ~~tor's duty to comply with the rules of the water resource board with respect~~
 32 ~~to the construction, modification, operation, plugging and decommissioning~~
 33 ~~of each well. The security shall remain in full force and effect until the~~
 34 ~~plugging and decommissioning of the well is approved by the director or the~~
 35 ~~security is released by the director. Well decommissioning shall include~~
 36 ~~reclamation of the well site so that the site is left in a stable, noneroding~~
 37 ~~condition with no impact to any ground water or surface water sources of the~~
 38 ~~state. The director may require additional security of an owner or operator~~
 39 ~~given sufficient reason, such as noncompliance, unusual conditions or other~~
 40 ~~circumstances that suggest a particular well has potential risk or liability~~
 41 ~~in excess of that normally expected.~~

42 (2) If the director of the department of water resources determines the
 43 use of the proposed or existing injection well will interfere or is interfer-
 44 ing with the right of the public to withdraw water for beneficial uses, and
 45 the director finds there are no overriding needs existing to justify the use
 46 of the injection well, the director may reject the application and forward
 47 notice of such rejection to the owner or operator by certified mail.

1 SECTION 5. That Section 42-3911, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 42-3911. FAILURE TO OBTAIN REQUIRED PERMIT OR SUBMIT REQUIRED INFOR-
4 MATION -- PENALTY. Any owner or operator who causes to be constructed or con-
5 sents either expressly or impliedly to the construction of a new deep injec-
6 tion well without having first obtained a permit therefor from the director
7 of the department of water resources as provided in this chapter shall be
8 guilty of a misdemeanor. Any owner or operator who causes an existing deep
9 injection well to be modified or consents either expressly or impliedly to
10 the modification of an existing deep injection well without having first ob-
11 tained a permit therefor from the director of the department of water re-
12 sources as provided in this chapter shall be guilty of a misdemeanor. ~~From~~
13 ~~and after January 1, 1974, any owner or operator who continues to operate~~
14 ~~and maintain or consents either expressly or impliedly to the continued op-~~
15 ~~eration and maintenance of an existing~~ Any owner or operator who operates
16 and maintains a deep injection well without having first obtained a permit
17 ~~therefor~~ from the director of the department of water resources as provided
18 in this chapter shall be guilty of a misdemeanor; ~~provided, that no misde-~~
19 ~~meanor shall occur where an owner or operator applied for a permit before~~
20 ~~January 1, 1974, and the director of the department of water resources has~~
21 ~~not approved or rejected said application.~~ Any owner or operator of a ~~pre-~~
22 ~~posed or existing~~ an injection well who violates the rules and regulations of
23 the water resource board shall be guilty of a misdemeanor. Each and every day
24 that such activity is carried on in violation of this section shall consti-
25 tute a separate and distinct offense.

26 SECTION 6. An emergency existing therefor, which emergency is hereby
27 declared to exist, this act shall be in full force and effect on and after
28 July 1, 2024.