



IDAHO DEPARTMENT OF
WATER RESOURCES

Idaho's Domestic Well Exemption before 2025

Presentation to the
Montana Water Policy Interim Committee
January 12, 2026



IDAHO DEPARTMENT OF
WATER RESOURCES

Shelley Keen
Deputy Director
Idaho Dept. of Water Resources
shelley.keen@idwr.idaho.gov
208-287-4947





Presentation Outline

- Statutory foundation for the exemption
- What was included in the domestic exemption before 2025?
- What was not in the domestic exemption before 2025?
- Pros and cons of the exemption
- Steps to implement the 2025 changes to the exemption





When is a water right required?

Idaho Code § 42-201(2):

No person shall divert any water from a natural watercourse or apply water to land without having obtained a valid water right to do so, or apply it to purposes for which no valid water right exists.





Use of Ground Water Requires a Water Right Filing

Idaho Code § 42-229 currently:

The right to the use of ground water of this state may be acquired only by appropriation. Such appropriation may be perfected by means of the application permit and license procedure as provided in this act.





Exception: Domestic Use of Ground Water Does not Require a Water Right Filing

Idaho Code § 42-227, *before*
2025:

The excavation and opening of wells and the withdrawal of water therefrom for domestic purposes shall not be subject to the permit requirement under section [42-229](#), Idaho Code.





What was in the Domestic Exemption before 2025?

Idaho Code § 42-111(1), *before 2025*:

The phrase "domestic purposes" or "domestic uses" means:

- (a) The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or
- (b) Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.



Before 2025, how much water could be diverted under the domestic exemption?

- Under part (1)(a), 13,000 gallons per day is 0.02 cfs (one inch or 9 gpm) diverted continuously for 24 hours.
- Under part (1)(b), 0.04 cfs up to 2,500 gallons per day is about two garden hoses running simultaneously for 2 hours and eighteen minutes.





What was not in the domestic exemption before 2025?

Domestic use of surface water.

Since 1971 the permitting process is required for all new surface water uses, even domestics.





More of what is not in the domestic exemption

Idaho Code § 42-111(2), *before 2025*:

Domestic purposes or domestic uses shall not include water for multiple ownership subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in subsection (1)(b) of this section.





More of what is not in the domestic exemption

Idaho Code § 42-111(3), *before 2025*:

Multiple water rights for domestic uses . . . shall not be established or exercised in a manner to satisfy a single combined water use or purpose that would not itself come within the definition of a domestic use or purpose under this section.





More of what is not in the domestic exemption

Use of low temperature geothermal water.

Idaho Code § 42-233 requires the filing and approval of a domestic water right for low temperature geothermal water when the use of water was completed after July 1, 1987.





By offering the pre-2025 exemption, what has Idaho gained?

- Reduced paperwork
- Rural homes can be built and occupied without a permitting delay
- Stock watering facilitated
- Subdivisions were not subject to water right moratoriums





What did Idaho's pre-2025 domestic exemption give up?

- Review of the statutory criteria for establishing new water rights
- The opportunity to protest the proposed use and have a hearing
- Opportunity to administer by priority
- Equity between neighbors
- Water diversion data



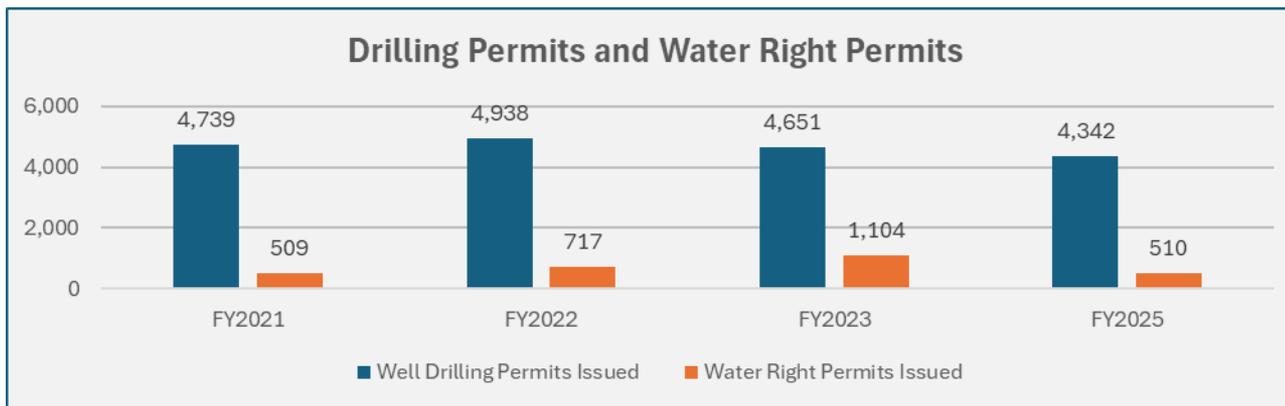


Number of exempt domestic water uses in Idaho

Past Exemptions -- See February 25, 2022, IDWR memo: “Adjudicating Deferred *De Minimis* Water Rights in the SRBA”

IDWR is highly uncertain about the number of *de minimis* claims that have been deferred in the SRBA. Our very preliminary estimate is that there could be as many as 42,000 pre-1987 deferred water rights. If post-1987 water rights are included, the number of additional claims could be 45,000 to 83,000, just based on well driller reports.

Trend





The 2025 statutory changes to the domestic exemption

See the presentation by Paul Arrington of the Idaho Water User's Association.



Resources for Understanding Idaho's Updated Domestic Exemption

Web Page -- <https://idwr.idaho.gov/domestic-exemption/>

IDAHO Official Government Website Research News Events Contact A | A



IDAHO DEPARTMENT OF WATER RESOURCES

- Water Rights ▾
- Wells ▾
- Streams/Dams/Floods ▾
- Forms ▾
- Water Data ▾
- Maps/Spatial Data ▾
- Legal ▾
- Board ▾
- About IDWR ▾



[Home](#) / Domestic Exemption

Domestic Exemption

The 2025 Idaho Legislature passed Senate Bill 1083a revising several statutes dealing with domestic uses of water, shared wells, and subdivisions. These statutory changes are effective on July 1, 2025. The changes to Idaho Code §§ 42-111 and 42-227 modified the requirements for establishing a water right for domestic purposes without applying to the Department of Water Resources ("IDWR") for a permit. This opportunity is sometimes called the "domestic exemption."

From this page, you can review the guidance IDWR issued to its staff members to help them apply the statutory changes affecting the domestic exemption. IDWR staff members will rely on this guidance to answer questions about the domestic exemption.

As experience with the revised statutes expands over time, IDWR may update its guidance to staff members to address frequently asked questions.

Guidance Documents

Administrator's Memorandum | Application Processing No. 80 & Adjudication No. 62: [Guidance for Implementing Revised Statutes for Domestic Uses](#)

The following documents are tools to help determine whether water use is exempt or requires a permit under Idaho Code § 42-111:

-  [Domestic Exemption Flow Chart](#)
-  [Domestic Exemption Decision Table](#)

Mapping Tool






Resources for Understanding the Updated Domestic Exemption

DOMESTIC EXEMPTION DECISION TABLE

AFTER JULY 1, 2025

Within "Regulated Area" ¹	Shared Well(s) - No			Shared Well(s) - Yes			
	Not in a Subdivision ²	Use is within a Subdivision		Not in a Subdivision		Use is within a Subdivision	
	"In-home use" &/or domestic irrigation	In-home use ³ only	Domestic Irrigation ⁴ included	In-home use only	Domestic Irrigation included	In-home use only	Domestic Irrigation included
No	Exempt⁵ 42-111(1)(a), 42-227(1)	Exempt 42-111(1)(a), 42-227(1)	Exempt 42-111(1)(a), 42-227(1)	Exempt 42-111(3)	Permit required if collective use exceeds ½ acre of irrigation or diversion of more than 13,000 gpd. 42-111(a)(i)	Exempt 42- 111(1)(b)(iii), 42-111(3)	Permit Required 42-111(1)(b)(iii), 42-111(3)
Yes	Exempt 42-111(1)(a), 42-227(1)	Exempt 42-227(4)	Permit Required⁶ 42-227(4)	Exempt 42-227	Permit required if collective use exceeds ½ acre of irrigation or diversion of more than 13,000 gpd. 42-111(a)(i)	Exempt 42-227	Permit Required 42-111(1)(b)(iii), 42-111(3), 42- 227(4)

¹ **Regulated Area** - An area where the Director of the Department of Water Resources ("IDWR") has issued a moratorium order on the development of new water rights or has designated a critical ground water area or ground water management area.

² **Subdivision** - Idaho Code § 50-1301(18) defines "subdivision" as "[a] tract of land divided into five (5) or more lots, parcels, or sites for the purpose of sale or building development"



Resources for Understanding the Updated Domestic Exemption

Online Mapping Tool



Moratoriums and Areas of Regulated Ground Water Development

[Help/About](#)

[About](#) [Contact](#) [Terms & Conditions](#)

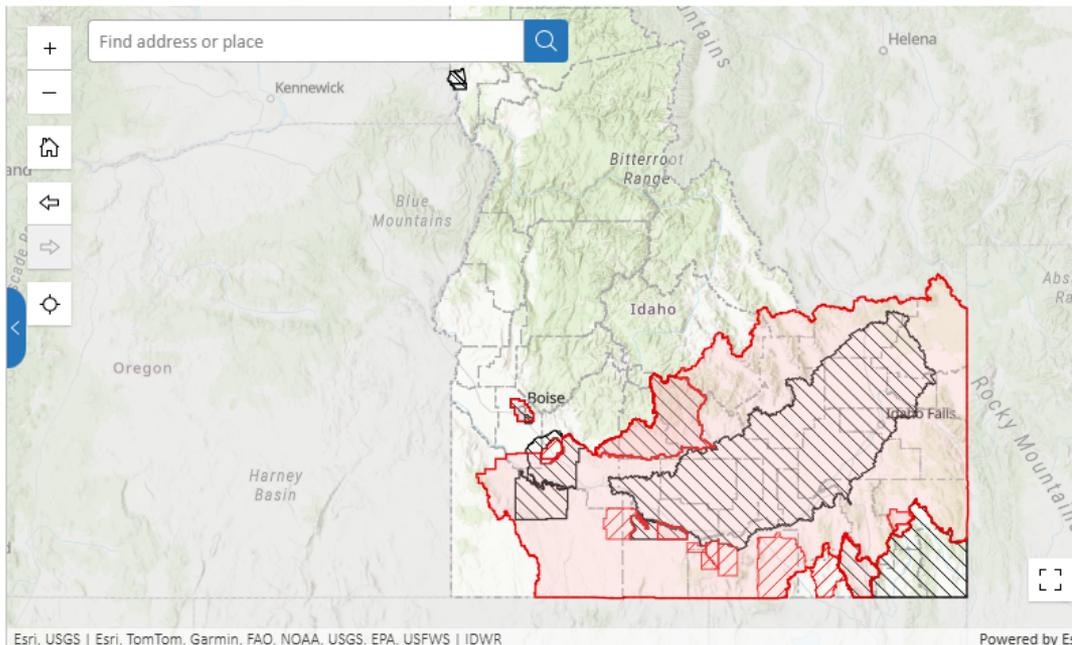
Moratoriums and Areas of Regulated Ground Water Development

View areas where the Director of the Idaho Department of Water Resources has issued a Moratorium Order on the development of new water rights, or has designated a Critical Ground Water Area or Ground Water Management Area.

User Guide

This application allows users to determine if a location is within a Moratorium Area, Groundwater Management Area, or Critical Groundwater Management Area.

- **Search** for an address or location in the search bar. Selecting an address will automatically zoom to that location.
- **Click on the map** to display a pop-up, showing if



Esri, USGS | Esri, TomTom, Garmin, FAO, NOAA, USGS, EPA, USFWS | IDWR

Powered by Esri



Questions?



Shelley Keen
Deputy Director
Idaho Dept. of Water Resources
shelley.keen@idwr.idaho.gov
208-287-4947

Thank you