

**Zero-Based Regulation  
Prospective Analysis**

- **Fill out entire form to the best of your ability, unless submitting a Notice to Negotiate only fill out 1, 2, and 5**

**Agency Name:**

**Rule Docket Number:**

**1. What is the specific legal authority for this proposed rule?**

<b>Statute Section (include direct link)</b>	<b>Is the authority mandatory or discretionary?</b>
Idaho Code § 47-1505(3) and 47-1518(f)	Discretionary in 47-1505(3), Mandatory in 47-1518(f)
Idaho Code § 58-104(6)	Discretionary

**2. Define the specific problem that the proposed rule is attempting to solve? Can the problem be addressed by non-regulatory measures?**

House Bill 141 was signed into law during the 2019 legislative session and significantly modified the Idaho Surface Mining Act. A Temporary Rule was approved prior to August 1, 2019, but additional negotiations are needed before a proposed rule is published. The rulemaking is needed to implement those statutory changes. Terminology changes and new types of financial assurance are addressed. In addition, the surface impacts of underground mines and post closure needs are now regulated by the act. Application fees for reclamation plans must also be addressed by the rule as well as several other changes from HB141. Lastly, changes are underway for IDAPA 58.01.03 that require corresponding changes to the permanent closure plan portions of IDAPA 20.03.02. These changes cannot be addressed by non-regulatory measures.

**3. How have other jurisdictions approached the problem this proposed rule intends to address?**

**a. Is this proposed rule related to any existing federal law?**

Federal citation	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)

**b. How does this proposed rule compare to other state laws?**

State	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
Washington		
Oregon		
Nevada		
Utah		
Wyoming		
Montana		
Alaska		
South Dakota		

**c. If the Idaho proposed rule has a more stringent requirement than the federal government or the reviewed states, describe the evidence base or unique circumstances that justifies the enhanced requirement:**

**4. What evidence is there that the rule, as proposed, will solve the problem?**

**5. What is the anticipated impact of the proposed rule on various stakeholders? Include, how will you involve them in the negotiated rulemaking process?**

Category	Potential Impact
Fiscal impact to the state General Fund, any dedicated fund, or federal fund	No impact to the General Fund. The fiscal statement in HB 141 stated there would be no fiscal impact because the new fees (established in rule) will cover any additional workload through the use of an existing dedicated fund.
Impact to Idaho businesses, with special consideration for small businesses	Mining companies are now required to pay application fees that approximate IDL's cost to process their reclamation plan. Fees are tiered based on size, so smaller mines will pay less. The added flexibility for providing financial assurance may reduce those costs. Rulemaking website, emails, mailings, and direct contacts are used to engage the stakeholders.
Impact to any local government in Idaho	No impact to local governments.

**6. What cumulative regulatory volume does this proposed rule add?**

Category	Impact
Net change in word count	
Net change in restrictive word count	