

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: Idaho Department of Lands (IDL)

Rule Docket Number: 20-0214-2201

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

Statute Section (include direct link)	Is the authority mandatory or discretionary?
Public Lands – Department of Lands: Section 58-104(6), Idaho Code – State Land Board – Powers and Duties https://legislature.idaho.gov/statutesrules/idstat/Title58/T58CH1/SECT58-104/	Discretionary
Public Lands – Department of Lands: Section 58-105, Idaho Code – Director https://legislature.idaho.gov/statutesrules/idstat/Title58/T58CH1/SECT58-105/	Discretionary
Idaho Code Title 58 Chapter 4 – Sale of Timber on State Lands https://legislature.idaho.gov/statutesrules/idstat/Title58/T58CH4/	Discretionary

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

This rule governs the selling of forest products from state endowment lands and sets minimum requirements for timber sale auctions, initial deposits and bonding, stumpage and interest payment, and timber sale cancellation and termination. The proposed changes seek to comply with Executive Order 2020-01, reduce the total word count, and reduce the number of repetitive statements in the new chapter.

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)
None	N/A	N/A

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	<p>Washington DNR sells timber using lump sum sales and scale sales. Lump sum sales are due at the day of the sale. Scale sales require bonding (25%). Various types of bonding are acceptable with these sales. Extensions may be granted with a fee based on estimated loss of income plus interest on the unpaid portion of the contract. Sales are sold a public auction or sealed bid. Bid deposits are required. Sales must be confirmed within 10 days of the auction. Washington DNR offers direct sales, firewood, and personal use permits as well. Chapter 79.11 RCW: STATE LAND SALES (wa.gov)</p>	It is not. Idaho has less stringent rules.
Oregon	<p>Sales exceeding \$25,000 in value shall be sold using competitive bidding. This can be either public oral auction or sealed bid. Eligible bidders must complete a Certification of Eligibility to Bid and cannot be in default from a federal, state, or local sales dating 3 years prior. Bid security is 10% of the appraised value and bids security can be cash, money order, surety bond, etc. They require performance bonds (20% minimum), and payment bonds during harvesting. https://oregon.public.law/rules/oar_chapter_629_division_29</p>	It is not. Idaho has less stringent rules.

Nevada	<p>Nevada is allowed to sell timber that is not assigned to the Department of Wildlife. Monies generated from the sale of timber must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund. This can be done after consulting with the Division of Forestry. They do not offer wood cutting permits for the public.</p> <p>NRS: CHAPTER 321 - ADMINISTRATION, CONTROL AND TRANSFER OF STATE LANDS</p>	<p>It is not. Idaho is different in the fact that we have a robust timber industry. They manage private landowners.</p>
Utah	<p>Utah prepares a plan for competitive and noncompetitive sales like many other states. They cannot sell sawlog or exceed \$500 with noncompetitive sales. They advertise their competitive sales for 1 to 2 weeks in multiple newspapers, and that cost will be borne by the successful applicant. The top three sealed bids are invited to the oral auction. After the contract is awarded, the purchaser must complete a harvest plan approved by the agency. They also must apply a performance bond in the amount of at least twice the cost of rehabilitation. Payment bonds are for the total sale price. Extensions are subject to increase bonds and contract prices. Long term agreements are sales lasting from two to ten years.</p> <p>http://utrules.elaws.us/uac/r850-70</p>	<p>It is not. Idaho has less stringent rules.</p>
Wyoming	<p>The state forester drafts an annual work plan for the director. There are three types of sales: personal use, permit, and bid sales. Sales not initiated by the director require an application that has a nonrefundable fee. Bid guarantees must be a minimum of \$500. The fee is applied to the payment. The successful bidder has 90 days to sign the contract. Performance bonds are 10% or \$500 whichever is greater. Extension requests need to be made within 30 days. Payments need to be made in full before harvesting or paid in installments.</p> <p>https://rules.wyo.gov/Search.aspx?mode=1# - Reference Number: 060.0002.8.05121998</p>	<p>It is not. IDL has different price thresholds for bonding, but we do not require prepayment to begin harvesting.</p>

Montana	<p>Montana DNRC's rules over their trust lands are detailed in the way they manage their lands. Environmental assessments are subject to timber sales without categorical exclusions. Montana uses rule to describe management of roads, silviculture, and biodiversity. Idaho uses policy and procedure to handle such management. Montana DNRC can sell up to 500,000 board feet of commercial timber without advertisement or Board approval. The sale of timber and applicable bonding, etc. is covered in Montana Code.</p> <p>Subchapter Home: - Administrative Rules of the State of Montana (mt.gov)</p>	<p>It is not. Montana uses rule to describe management of roads, silviculture, and biodiversity. Idaho uses policy and procedure to handle such situations.</p>
Alaska	<p>Alaska sells timber four different ways. Sealed/oral bids and three types of negotiated sales depending on socio-economic factors. Their stumpage sales are similar in nature to IDL's. They use the rules to layout how to appraise timber, contractual document, rights of way, along with the bonding requirements.</p> <p>http://forestry.alaska.gov/Assets/pdfs/timber/2013 For mgmt stat and reg TEXT UPDATE.pdf</p>	<p>It is not. Idaho has less stringent rules.</p>
South Dakota	N/A	N/A

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:

N/A

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

The rule text reduced the total word count and restrictive statements. The proposed rule remains to be less restrictive.

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. The rule is already in place and its administration is funded from earnings reserve.

Category	Potential Impact
Impact to Idaho businesses, with special consideration for small businesses	The proposed changes will make the rule easier to understand by reducing the word count and repetitive statements. The rule will be reviewed with stakeholders to ensure it provides clarity to our processes.
Impact to any local government in Idaho	No impact is anticipated to local government in Idaho. The rule is in place, and the reduction of total word count and repetitive statements will not change the intent of the rule.

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

Category	Impact
Net change in word count	Reduced by 294 words (-19%)
Net change in restrictive word count	Reduced by 1 word (-11%)