

Zero-Based Regulation Prospective Analysis

Agency Name: Idaho Department of Lands

Rule Docket Number: 20-0501-2301

IDAPA 20.05.01, Rules Pertaining to the Recreational Use of Endowment Land

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

Statute Section (include direct link)	Is the authority mandatory or discretionary?
Idaho Code § 58-156 – Endowment Land – Closure, Restriction, Regulation, or Prohibition (Effective July 1, 2023)	Discretionary
Idaho Code § 58-104(6) – State Land Board – Powers and Duties	Discretionary
Idaho Code 58-105 – Director	Discretionary

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

Aside from misdemeanor or felony criminal trespass charges, Idaho Code doesn't provide for a less severe remedy for those who inflict relatively minor damage to endowment land while recreating. Allowing POST-certified Idaho law enforcement to issue warnings/citations for relatively minor offenses will help disincentivize destructive behaviors on endowment land; rulemaking is required under the new law before a warning or infraction ticket may be written.

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)
N/A	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	Removing, defacing, damaging or destroying Washington DNR managed land is chargeable as a misdemeanor. https://app.leg.wa.gov/WAC/default.aspx?cite=332-52-110&pdf=true	Idaho's rule is less stringent as it allows for a warning or \$250 citation.
Oregon	Oregon law authorizes civil penalties of up to \$1,000 per day (ORS 273.994) for those violating rules relating to the damage of public land (ORS 273.500) https://www.oregonlegislature.gov/bills_laws/ors/ors273.html	Idaho's rule is less stringent as it allows for a warning or \$250 citation.
Nevada	Nevada provides for fines, misdemeanor or felony charges for damage to public property. https://www.leg.state.nv.us/nrs/NRS-331.html#NRS331Sec200	Idaho's rule is less stringent as it allows for warnings to be issued.
Utah	Utah's rules prohibit a comprehensive list of activities on endowment trust land and provides for misdemeanor criminal mischief charges. https://trustlands.utah.gov/wp-content/uploads/2022/10/2022-10-Agency-Rulebook-37th-Edition.pdf#page=33	Idaho's rule is less stringent as it allows for a warning or \$250 citation.
Wyoming	Wyoming law provides for misdemeanor charges for damage to endowment trust land. https://law.justia.com/codes/wyoming/2011/title36/chapter2/section36-2-107	Idaho's rule is less stringent as it allows for a warning or \$250 citation.

Montana	Montana’s rules restrict a comprehensive list of activities on endowment trust land, require recreational land users to purchase a license, and provides for civil and misdemeanor charges. http://archive-dnrc.mt.gov/divisions/trust/recreational-use-of-state-land/rec-use-forms-and-permits/state-land-recreational-use-rules#page=4	Idaho’s rule is less stringent as it allows for a warning or \$250 citation.
Alaska	Alaska rules include an extensive list of generally allowed uses for public land that do not require a permit and provides for penalties ranging from civil actions to criminal trespass charges. https://www.akleg.gov/basis/aac.asp#11.96.020	Idaho’s rule is less stringent as it allows for a warning or \$250 citation.
South Dakota	South Dakota provides for misdemeanor or felony charges for intentional damage to public property. https://sdlegislature.gov/Statutes/22-34	Idaho’s rule is less stringent as it allows for a warning or \$250 citation.

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?

IDL has anecdotal evidence that while law enforcement officials are reluctant to bring heavy-handed misdemeanor criminal trespass charges for actions that only mildly damage endowment land, they would be willing to issue warnings or citations, if that option existed.

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 any dedicated fund or the General Fund is anticipated.
Impact to Idaho businesses, with special consideration for small businesses	No impacts to businesses are anticipated.
Impact to any local government in Idaho	No impact to local government is anticipated.

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

Category	Impact
Net change in word count	This is a New Rule Chapter: No changes are shown. Rule Text Pages: 2 Total Words: 598
Net change in restrictive word count	Total Restrictive words: 11