

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

Rule Docket Number: 20-0304-2401

IDAPA 20.03.04 Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho

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

Statute Section (include direct link)	Is the authority mandatory or discretionary?
Section 58-104(6) and 58-104(9), Idaho Code – State Land Board — Powers and Duties	Discretionary
Section 58-105, Idaho Code – Director	Discretionary
Title 58, Chapter 13, et seq., Idaho Code – Navigational Encroachments	Mandatory

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

IDAPA 20.03.04 protects the state’s navigable lakes by setting standards for encroachments. By regulating encroachments, this rule protects property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality.

Encroachments include docks, marinas, piers, buoys, pilings, breakwaters, boat ramps, and other facilities used to support watercraft, as well as fills, bridges, utility lines, float homes, boat garages, and other structures constructed on, in, or above the beds or waters of a navigable lake. The proposed changes seek to comply with Executive Order 2020-01 and simplify and consolidate requirements. Over 10,000 permits are currently covered by these rules. Unpermitted encroachments often adversely affect neighboring properties, navigation, and aquatic habitat.

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)

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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, dedicated funds, or federal funds is anticipated.
Impact to Idaho businesses, with special consideration for small businesses	This will potentially affect Idaho business that own and operate marinas, community docks, or other encroachments to the extent that the current rules already affect them. All affected businesses will be notified of the negotiated rulemaking, and public meetings will be held around the state.
Impact to any local government in Idaho	This will potentially impact local government agencies that own or operate any encroachments adjacent to Idaho’s navigable lakes to the extent that the current rules already affect them. Affected counties and cities will be notified of the negotiated rulemaking, and public meetings will be held around the state.

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

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