

## Zero-Based Regulation Prospective Analysis

**Agency Name:** Idaho Department of Lands

**Rule Docket Number:** 20-0401-2301

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

Statute Section (include direct link)	Is the authority mandatory or discretionary?
Idaho Forestry Act <a href="#">Title 38, Idaho Code Chapter 1</a>	Mandatory

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

The Zero-Based Regulation framework offers the opportunity to eliminate redundancy, remove outdated requirements and improve readability of IDAPA 20.04.01. As part of this process, some updated improvements to the rules are proposed. The problem 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)
15 U.S.C. Ch. 49 (1974) Fire Prevention and Control Act	Fire Prevention and Control Act <a href="https://uscode.house.gov/view.xhtml?path=/prelim@title15/chapter49&amp;edition=prelim">https://uscode.house.gov/view.xhtml?path=/prelim@title15/chapter49&amp;edition=prelim</a> The Act provides for development of a comprehensive national fire prevention and control program. It authorizes the Secretary of Agriculture to provide technical and financial assistance to state and local government efforts and established the National Interagency Coordination Center to coordinate federal, state, and local firefighting efforts.	It is not.  The Idaho Forestry Act defines the duties of Director Department of Lands which include executing the rules and regulations pertaining to forest and watershed protection; to further the enforcement of laws to protect forests; and to promote community forest management on public and private land.

<p>42 U.S.C. §5121-5207 et seq., 6 U.S.C. §101 et seq. (2002)</p>	<p>Robert t. Stafford Disaster Relief Act and Homeland Security Act of 2002</p> <p>CFR Title 44, Emergency Management &amp; Assistance</p> <p><a href="#">eCFR :: 44 CFR Part 204 -- Fire Management Assistance Grant Program</a></p> <p><a href="#">eCFR :: 44 CFR Part 201 -- Mitigation Planning</a></p>	<p>The Code of Federal Regulations Title 44 contains the codified U.S. Federal laws and regulations pertaining to Federal emergency management and assistance, including insurance and hazard mitigation, fire prevention and control, disaster assistance, and emergency preparedness.</p>
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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	The Revised Code of Washington and the Washington Administrative Code contain similar fire protection provisions to Idaho's. <a href="#">Chapter 76.04 RCW: FOREST PROTECTION</a> <a href="#">Chapter 332-24 WAC: FOREST PROTECTION</a>	Washington is more stringent. Firefighting equipment requirements are more extensive for operators, closed fire season is longer in duration and burn permit fees are charged and graduated by debris volume.
Oregon	Oregon Revised Statutes Title 38 Chapter 477 Fire Protection of Forests and Vegetation <a href="#">ORS Chapter 477 - Fire Protection of Forests and Vegetation</a>	Oregon is more stringent, has a larger, more complicated set of rules
Nevada	Establishes a State Forester Fire Warden with authorities and responsibilities for fire protection, training, cooperative agreements, etc. Provides for County Fire Protection Districts and Rangeland Fire Protection Associations.  Title 42 Chapters 472-474 Protection from Fire <a href="#">NRS Title 42 - Protection from Fire - Nevada Revised Statutes</a>  Title 47 Chapters 527-528 Forestry; Forest Products and Flora <a href="#">NRS Title 47 - Forestry - Nevada Revised Statutes</a>	Similar to Idaho.
Utah	Creates a State Forester position, wildfire suppression fund, and county fire wardens and defines county, city and town fire control responsibilities. Defines closed fire season and describes burn permit requirements.  Title 65 Chapter 8 Management of Forest Lands and Fire Control <a href="#">Utah Management of Forest Lands and Fire Control</a>	Similar to Idaho.

Wyoming	<p>The State Board of Land Commissioners appoints the state forester under Title 36 Public Lands, Chapter 2 Board of Land Commissioners, Article 1. The State Board of Land Commissioners can require County Fire Wardens to close areas due to extreme fire danger under Title 35 – Public Health and Safety, Chapter 9 Fire Protection, Article 3 Areas of Extreme Fire Danger (W.S. 35-9-303). County Commissioners may appoint County Fire Wardens under Article 4, Unincorporated Cities or Towns (W.S. 35-9-401, 402).</p> <p>Title 35 Public Health and Safety  <a href="https://wyoleg.gov/statutes/compress/title35.pdf">https://wyoleg.gov/statutes/compress/title35.pdf</a></p> <p>County Fire Wardens  <a href="https://wsfd.wyo.gov/fire-management/county-fire-wardens">https://wsfd.wyo.gov/fire-management/county-fire-wardens</a></p> <p>Forest Management and Fire Management are handled by the Wyoming State Forestry Division  <a href="https://wsfd.wyo.gov/">https://wsfd.wyo.gov/</a></p> <p>Wyoming Administrative Rules Search  <a href="https://rules.wyo.gov/Search.aspx?mode=1">https://rules.wyo.gov/Search.aspx?mode=1</a></p>	Wyoming has fewer rules.
Montana	<p>Timber Resources  <a href="#">Title 76, Chapter 13 Timber Resources</a></p> <p>Fire Prevention on Forest Lands  <a href="#">Rule Chapter 36.10 Fire Management</a></p>	Very similar to Idaho

Alaska	<p>Forest Resources and Practices Act Summary</p> <p><a href="http://forestry.alaska.gov/forestpractices">http://forestry.alaska.gov/forestpractices</a></p> <p>The FRPA applies to commercial timber operations on forestland, including harvesting, roads, site preparation, thinning, and slash treatment operations on forest land.</p> <p>FRPA, AS 41.17 <a href="#">Alaska Forest Resources and Practices Act AS 41.17</a></p> <p>FRPA, Regulations 11 AAC 95 <a href="#">Alaska Forest Resources and Practices Regulations 11 AAC 95</a></p> <p>Alaska Wildland Fire Protection Statutes and Regulations Booklet <a href="#">Fire Regulations Booklet</a></p> <p>Alaska Fire Prevention Statutes and Regulations AS 41.15 <a href="#">Title 41. Public Resources Chapter 15. Forests</a></p>	Alaska has similar statutes and regulations that are more restrictive.
South Dakota	<p>South Dakota Wildland Fire has separate but interdependent program functions in fire suppression, prescribed fire, wildland fire training, fire aviation, fire management, hazardous fuels mitigation, and volunteer fire assistance. <a href="#">South Dakota Wildland Fire</a></p> <p>Fire Prevention and Suppression <a href="https://sdlegislature.gov/Statutes/41-20A">https://sdlegislature.gov/Statutes/41-20A</a></p> <p>Fire Protection Contracts <a href="https://sdlegislature.gov/Statutes/8-9-4">https://sdlegislature.gov/Statutes/8-9-4</a></p> <p>Wildland Fire and Burn Permits <a href="https://sdlegislature.gov/Rules/Administrative/61:33">https://sdlegislature.gov/Rules/Administrative/61:33</a></p>	Similar to Idaho.

- 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?**

No substantive changes were made to the rule. The rule underwent significant modifications which were codified in 2019. Sufficient statistics to assess the impact to fire prevention of those modifications are not yet realized.

**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. These rules are already in place and their administration is funded with current allocations of state General Fund and Fire Dedicated funds.
Impact to Idaho businesses, with special consideration for small businesses	The proposed simplifications will make it easier for contractors to comply with the Fire Protection Rules.
Impact to any local government in Idaho	No impact anticipated. IDL held two public meetings for the negotiated rulemaking and met with stakeholder groups that expressed interest in the rule modification.

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

Category	Impact
Net change in word count	277 words removed for 9 % reduction
Net change in restrictive word count	6 restrictive words removed for 21 % reduction