

Zero-Based Regulation Prospective Analysis

Agency Name: Idaho Department of Lands

Rule Docket Number: 20-0315-2401

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

Statute Section (include direct link)	Is the authority mandatory or discretionary?
Idaho Code Title 47, Chapter 16 - Geothermal Resources	Discretionary
Idaho Code Title 58, Chapter 104(6) - State Land Board – Powers and Duties	Discretionary
Idaho Code Title 58, Chapter 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?

IDAPA 20.03.15 provides guidance for oil and gas leasing on state lands. The proposed changes seek to comply with Executive Order 2020-01. The Department will begin the negotiated rulemaking process, including, but not limited to, legal and internal review of the rule, as well as review with stakeholders to ensure the rules provide appropriate guidance for lessees, interested parties, and the Department.

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)
43 CFR Part 3200 -- Geothermal Resource Leasing	https://www.ecfr.gov/current/title-43/subtitle-B/chapter-II/subchapter-C/part-3200 Geothermal Resource leasing for federal lands.	The existing and proposed Idaho rules are not more stringent.

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	https://app.leg.wa.gov/wac/default.aspx?cite=332-22 Rules for leasing geothermal resources in Washington.	The existing and proposed Idaho rules are not more stringent, with exception of the required public auction process for leasing.
Oregon	https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=366 Rules for leasing geothermal resources in Oregon.	The existing and proposed Idaho rules are not more stringent, with exception of the required public auction process for leasing.
Nevada	No leasing program identified.	N/A

Utah	https://adminrules.utah.gov/public/rule/R652-20/Current%20Rules? Rules for leasing geothermal resources in Utah.	The existing and proposed Idaho rules are not more stringent, with exception of the required public auction process for leasing.
Wyoming	Wyoming Statutes Title 36 Chapter 5 (36-5-101) https://wyoleg.gov/NXT/gateway.dll?f=templates&fn=default.htm Wyoming has not adopted rules for geothermal leasing, they rely on statutes.	The existing and proposed Idaho rules are not more stringent, with exception of the required public auction process for leasing.
Montana	https://rules.mt.gov/gateway/RuleNo.asp?RN=36%2E25%2E404 Rules for leasing geothermal resources in Utah.	The existing and proposed Idaho rules are not more stringent, with exception of the required public auction process for leasing.
Alaska	https://www.akleg.gov/basis/aac.asp#11.83.1020 Rules for leasing geothermal resources in Alaska.	The existing and proposed Idaho rules are not more stringent, with exception of the required public auction process for leasing.
South Dakota	https://sdlegislature.gov/Statutes/5-7-19 No rules were identified in South Dakota for the leasing of geothermal resources. Statute reference provided.	The existing and proposed Idaho rules are not more stringent, with exception of the required public auction process for leasing.

- 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:**

The Wasden v. State Board of Land Commissioners case from 2012 resulted in a ruling that the Attorney General’s office has interpreted to mean that all state endowment trust lands shall be leased using a public auction process. This obligatory auction process was affirmed in the October 2019 Land Board policy related to endowment land leasing. Other states use the public auction process, but no other states have been identified that mandate it.

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

The proposed rule will clarify existing language. The proposed changes seek to comply with Executive Order 2020-01.

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 fiscal impact to the General Fund, Earnings Reserve, any other dedicated fund, or federal funds.
Impact to Idaho businesses, with special consideration for small businesses	No impact to Idaho businesses.
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	Reduced by 862 words.
Net change in restrictive word count	Increased by 3 words.