

Zero-Based Regulation Prospective Analysis

Agency Name: Idaho Department of Lands

Rule Docket Number: 20-0402-2301

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 Title 38, Idaho Code Chapter 1	Mandatory
Fire Hazard Reduction Programs Title 38, Idaho Code Chapter 4	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The Zero-Based Regulation framework offers the opportunity to eliminate redundancy, remove outdated requirements and improve readability of IDAPA 20.04.02. 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)
Healthy Forests Restoration Act of 2003	The Healthy Forests Restoration Act of 2003 authorizes the Secretary of Agriculture to conduct fuels reduction projects on national forests and grasslands.	It is not. The Idaho Forestry Act defines the duties of the 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.
Federal Land Policy and Management Act of 1976	The Federal Land Policy and Management Act of 1976 requires the Bureau of Land Management to manage public lands in a way that minimizes the risk of wildfires.	

		<p>The Fire Hazard Reduction Programs Chapter gives the supervision, control, and management of all fire hazards created by insects, disease, other natural causes, or by any person engaged in harvesting forest products to the Director of the Department of Lands.</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	<p>The Revised Code of Washington and the Washington Administrative Code contain similar restrictions on burning and hazard abatement requirements to Idaho's. The WAC has specific hazard abatement requirements for debris created by landowner activities and landowners carry liability for fire suppression costs if abatement is required.</p> <p>Chapter 76.04 RCW: FOREST PROTECTION Chapter 332-24 WAC: FOREST PROTECTION</p>	<p>Washington's laws and regulations are far more complex and more stringent.</p>
Oregon	<p>Oregon Revised Statutes Title 38 Chapter 477 Fire Protection of Forests and Vegetation ORS Chapter 477 - Fire Protection of Forests and Vegetation</p> <p>Chapter 477 details requirements for permitting to use fire or power-driven machinery within 1/8 mile of a forest protection district and as a result the Forest Practices forester will determine if an additional fire hazard has been created from slashing or debris and detail mitigation requirements, provide for release of liability through mitigation, or grant a release upon payment by the operator to pay for additional protection.</p> <p>Chapter 477 also requires the State Forester and the Department of Environmental Quality to jointly approve a Smoke Management Plan.</p>	<p>Oregon is more stringent, has a larger, more complicated set of rules</p>
Nevada	<p>Chapter 527 details requirements for prescribed fire. Chapter 528 details additional practices required during fire season including a detailed fire plan.</p> <p>NRS: CHAPTER 527 - PROTECTION AND PRESERVATION OF TIMBERED LANDS, TREES AND FLORA (state.nv.us)</p> <p>NRS: CHAPTER 528 - FOREST PRACTICE AND REFORESTATION (state.nv.us)</p>	<p>Similar to Idaho, but written fire plans for prescribed fire are more extensive.</p>

Utah	R652-120 Wildland Fire Responsibilities lists burn permit and prescribed fire plan requirements. R652-120 Wildland Fire Responsibilities	Similar to Idaho.
Wyoming	Wyoming Administrative Rules Search https://rules.wyo.gov/Search.aspx?mode=1	Wyoming has fewer rules.
Montana	Forest Management Subchapter 36.11.2, Control of Timber Slash and Debris Control of Timber Slash and Debris	Similar to Idaho, but more specific requirements.
Alaska	Forest Resources and Practices Act Summary https://forestry.alaska.gov/forestpractices The FRPA applies to commercial timber operations on forestland, including harvesting, roads, site preparation, thinning, and slash treatment operations on forest land. FRPA, AS 41.17 Alaska Forest Resources and Practices Act AS 41.17 FRPA, Regulations 11 AAC 95 Alaska Forest Resources and Practices Regulations 11 AAC 95	Alaska slash hazard abatement requirements are less restrictive.
South Dakota	Logging Slash Abandonment and Treatment Standards Treatment methods are defined and standards for treatment and prescribed fire are detailed. Logging Slash Abandonment and Treatment Standards Chapter 12:12:02	Simpler and less restrictive than Idaho. Abandoning logging slash is a misdemeanor violation in 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?

Feedback from Fire Wardens during field calibrations in coming field seasons may provide evidence that contractors' understanding of the rules is improved and improved compliance with hazard reduction standards may show that the process is better implemented.

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 change will make it easier for landowners to understand the hazard reduction standards and the process for release from liability for fire suppression costs.
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	60 words for 1.5 % reduction
Net change in restrictive word count	14 restrictive words for 41.2 % reduction