

Negotiated Rulemaking Summary

IDAPA 20.03.15, Rules Governing Geothermal Leasing on Idaho State Lands

Docket No. 20-0315-2401

Following Executive Order 2020-01: Zero-Based Regulation, this rule chapter is scheduled for review during the 2025 legislative session.

IDAPA 20.03.15 provides guidance for geothermal leasing on Idaho State Lands. The proposed changes seek to comply with Executive Order 2020-01. The Idaho Department of Lands (IDL) negotiated rulemaking process, includes, but is not limited to, legal and internal reviews of the rule, as well as review with stakeholders to ensure the rules provide appropriate guidance for lessees, interested parties, and the Department.

Negotiated rulemaking for these rules was approved by the Land Board on January 16, 2024 (Attachment 1). The Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking was published in the Idaho Administrative Bulletin on March 6, 2024.

Stakeholder Outreach

The IDL's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin
- Created a rulemaking webpage to post documents, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0315-2401/>)
- Posted rulemaking notices to Townhall Idaho
- Email and direct communication giving notice of negotiated rulemaking to stakeholders.

Negotiated Rulemaking Public Meetings

Negotiated rulemaking meetings were held on March 28 and April 10, 2024. A total of 3 non-Department affiliated people attended these meetings.

Some discussion occurred regarding the addition and clarification of certain definitions to update the rule language to reflect current industry language and practices.

Written Comments

One written comment was received from Eavor, Inc. pointing out that some definitions may need to be reviewed and updated. Minor revisions were suggested for part 055 and 060 of the rule.

These comments have been posted for public review.

Concluding Negotiated Rulemaking

IDL concluded the negotiated rulemaking process and submitted the rule changes for publication as a proposed rule in the July 3, 2024, edition of the Idaho Administrative Bulletin. Key documents from the rulemaking record are available at <https://www.idl.idaho.gov/rulemaking/docket-20-0315-2401/>, including research materials, and the proposed rule text in legislative format to allow the reader to easily identify changes.

Response to Comments on Negotiated Rule

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Comment	Rule Section	Response
<p>03. Suggest adding an exploration definition that includes the use of drilling rigs. 04. Completion: next generation geothermal technologies will simultaneously complete wells and continue drilling at the same time. Therefore, it makes sense to remove the statement on rig removal from site to consideration geothermal wells completed. 07. Direct use: consider adding a deep direct use definition or remove industrial applications from the existing definition. 09. Field: next generation geothermal technologies do not require the use of fractured aquifers or porous or permeable zones. A field definition might include the presence of hot dry rock. 10. Geothermal Resources: next generation geothermal technologies such as advanced geothermal systems and enhanced geothermal systems do not require aquifers to produce heat from the earth into utility scale heat and power projects. Therefore, to ensure the longevity of the geothermal resource definition as technology advances a definition of geothermal should not include the term aquifer. For best practices on defining geothermal resources, please refer to NREL’s 2023 rep.</p>	<p align="center">010</p>	<p>Definitions were reviewed by IDL and many of these comments were implemented into the rule definitions.</p>
<p>Strike geothermal fluids and replace with geothermal resource</p>	<p align="center">055.01</p>	<p>IDL reviewed and implemented this comment.</p>
<p>Drilling records: Eavor recommends that drilling records be turned over to the IDWR and be accessible to industry through a government portal.</p>	<p align="center">060.01</p>	<p>IDL reviewed and implemented this comment, without reference to a government portal.</p>