

SECTION 10 – PROGRAM ADMINISTRATION AND DEFINITIONS

A. Area Responsibilities

Processing	Areas will process: <ul style="list-style-type: none">▪ all Lake Protection Act requests, and▪ all applications within the Area boundaries. Bureau or Department personnel will assist, as requested.
Signatures	Area Supervisors, or their designee, shall sign all permits.
Inspections	Areas will perform: <ul style="list-style-type: none">▪ site visits▪ compliance inspections. Bureau or Department personnel will assist, as requested.
File Retention	The Areas will retain a complete encroachment permit file; however, the office of record for encroachment permits is the Boise staff office.
Document Distribution	Originals or first generation copies of all encroachment permits, associated applications, and receipts shall be forwarded to the Navigable Waters Program Manager.
Policy Changes	Area personnel will submit comments concerning recommendations for policy and procedure changes to the applicable Operations Chief.

B. Bureau Responsibilities

Support to Areas	The Bureau will provide information and guidance to the Areas to ensure consistency and completeness. This may include assistance in drafting decision documents, letters, and other materials.
Office of Record	The Bureau will receive and maintain the encroachment permit information sent to the Bureau from the Areas at the Boise office, with complete permit files being retained at the Area offices.
Procedures	The Bureau will review procedures on an on-going basis and make adjustments when necessary. In most cases, the Bureau will solicit input from Area staff, Executive staff, and Legal staff on all policy and procedure changes. At the discretion of the Bureau input will also be solicited from other agencies (local, state and federal), industry representatives, and the public.

C. Definitions

Adjacent - Contiguous or touching, and with regard to land or land ownership having a common boundary ([IDAPA 20.03.04.010.01](#)).

Aids to Navigation - Buoys, warning lights, and other encroachments in aid of navigation intended to improve waterways for navigation ([IDAPA 20.03.04.010.02](#)).

Approach - A component of a dock or pier system that provides access from the upland area or ramp to the moorage area of the structure. An approach can be floating or a pier with a recommended maximum width of six (6) feet ([Attachment 1](#)).

Artificial High Water Mark - The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line ([IDAPA 20.03.04.010.03](#)).

Bank Barb – Rock or wood structures keyed into bank and angled towards the upstream current or long shore drift to re-direct flow direction to reduce water forces on a particular stressed bank. The bank barb tapers both horizontally and vertically as it projects into the water with the tip or nose also keyed into bed of stream or lake. Re-directed flow will be 90° off of the downstream face of the bank barb. Deposition will normally occur on the downstream side against the shoreline. Bank barbs are nonnavigational encroachments and are processed under Idaho Code 58-1306.

Beds of Navigable Lakes - The lands lying under or below the “natural or ordinary high water mark” of a navigable lake and, for purposes of these rules only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one ([IDAPA 20.03.04.010.04](#)).

Board - The Idaho State Board of Land Commissioners or its designee ([IDAPA 20.03.04.010.05](#)).

Boat basin – An excavated area of lakebed, riverbed, or uplands used to provide mooring facilities. Boat basins are navigational encroachments and are processed under Idaho Code 58-1306.

Boat channel – An excavated area in a waterway or within uplands, which creates or extends a passageway or extends the waterway. Boat channels are navigational encroachments and are processed under Idaho Code 58-1306.

Boat Garage - A structure with one (1) or more slips that is completely enclosed with walls, roof, and doors, but no temporary or permanent residential area ([IDAPA 20.03.04.010.06](#)). Boat garages are nonnavigational encroachments and are processed under Idaho Code 58-1306.

Boat Lift - A mechanism for mooring boats partially or entirely out of the water ([IDAPA 20.03.04.010.07](#)). Boat lifts are navigational encroachments.

Boat Ramp - A structure or improved surface extending below the ordinary or artificial high water mark whereby watercraft or equipment are launched from land-based vehicles or trailers ([IDAPA 20.03.04.010.08](#)). Boat ramps are navigational encroachments.

Breakwater – A technically designed offshore structure used to protect property from the forces of waves. A log boom is not a breakwater. Breakwaters may be navigational or nonnavigational, depending on what they protect.

Commercial Marina - A commercial navigational encroachment whose primary purpose is to provide moorage for rental or for free to the general public ([IDAPA 20.03.04.010.09](#)). They are processed under Idaho Code 58-1306.

Commercial Navigational Encroachment - A navigational encroachment used for commercial purposes ([IDAPA 20.03.04.010.10](#)).

Community Dock - A structure that provides private moorage for more than two (2) adjacent littoral owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to homeowner's associations. No public access is required for a community dock ([IDAPA 20.03.04.010.11](#)). Community docks are navigational encroachments and are processed under Idaho Code 58-1306.

Covered Slip - A slip, or group of slips, with a tubular frame, fabric canopy, and no eaves ([IDAPA 20.03.04.010.12](#)).

Deck – The surface area of the dock.

Department - The Idaho Department of Lands or its designee ([IDAPA 20.03.04.010.13](#)).

Director - The head of the Idaho Department of Lands or his designee ([IDAPA 20.03.04.010.14](#)).

Dock – A floating structure which allows access to floating vessels, provides moorage for these vessels, and is limited in size. A dock is a navigational encroachment.

Encroachments in Aid of Navigation - Includes docks, piers, jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, and other facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake. The term “encroachments in aid of navigation” may be used interchangeably herein with the term “navigational encroachments” ([IDAPA 20.03.04.010.15](#)).

Encroachments Not in Aid of Navigation - Includes all other encroachments on, in, or above the beds or waters of a navigable lake, including landfills, bridges, utility and power lines, or other structures not constructed primarily for use in aid of navigation. It shall also include float homes and floating toys. The term “encroachments not in aid of navigation” may be used interchangeably herein with the term “nonnavigational encroachments” ([IDAPA 20.03.04.010.16](#)). They are processed under Idaho Code 58-1306.

Fairway – The watercourse within a marina where boats or other watercraft travel to access marina slips or moorage.

Float – A device which provides flotation such as logs, hollow concrete, barrels, and encased foam.

Floating Home or Float Home - A structure that is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling and is not self-propelled. These

structures are usually dependent for utilities upon a continuous utility linkage to a source originating on shore, and must have either a permanent continuous connection to a sewage system on shore, or an alternative method of sewage disposal that does not violate local, state, or federal water quality and sanitation regulations ([IDAPA 20.03.04.010.17](#)). Float homes are nonnavigational encroachments and are processed under Idaho Code 58-1306.

Floating Toys - Non-navigational encroachments including, but not limited to, trampolines, inflatable structures, water ski courses, and other recreational equipment not moored to a dock ([IDAPA 20.03.04.010.18](#)).

Groin – One or more structures placed perpendicular to shore, used to restrict long shore sediment transport. Groins are nonnavigational encroachments.

Jet Ski Ramp, Port, or Lift - A mechanism for mooring jet skis or other personal watercraft similar to a boat lift. The lifts may be free standing or attached to a dock or pier ([IDAPA 20.03.04.010.19](#)). These are navigational encroachments.

Jetty is an earthen and rock structure extending into the waterway to influence the current, or to protect property or moorage areas. A berm resistant to erosion usually placed adjacent to inlets to control inlet migration and to minimize sediment deposition within the inlet.

Line of Navigability - A line located at such distance waterward of the low water mark established by the length of existing legally permitted encroachments, water depths waterward of the low water mark, and by other relevant criteria determined by the board when a line has not already been established for the body of water in question ([IDAPA 20.03.04.010.20](#)).

Low Water Mark - That line or elevation on the bed of a lake marked or located by the average low water elevations over a period of years, and marks the point to which the riparian rights of adjoining landowners extend as a matter of right, in aid of their right to use the waters of the lake for purposes of navigation ([IDAPA 20.03.04.010.21](#)).

Moorage - A place to secure float homes and watercraft including, but not limited to, boats, personal watercraft, jet skis, etc. ([IDAPA 20.03.04.010.22](#)).

Natural or Ordinary High Water Mark - The high water elevation in a lake over a period of years, uninfluenced by man made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes ([IDAPA 20.03.04.010.23](#)).

Navigability for a public right-of-way means that a water body is open for public use, as a public highway, for travel up and down stream for business or pleasure. The public use may include boating, swimming, fishing, hunting, and all recreational purposes. The test for public right-of-way navigability is whether a stream is capable of floating cut timber with a diameter in excess of six inches, or any other commercial or floatable commodity, or whether a stream is capable of being navigated by watercraft. See Idaho Code § 36-1601. The test is less rigorous than the test of navigability for state title purposes and need not take into account historic uses of a waterway. Merely floating six-inch logs experimentally will establish that the waterway is navigable as a right-of-way. The state does not hold title to the beds and banks of these waterways. Most bodies of water that are navigable for title purposes will probably be navigable as a right-of-way. Only the State Land Board and the courts have the authority to determine whether a body of water is navigable for a public right-of-way.

Navigability for Title means a finding of navigability for State ownership purposes is based upon the federal “navigability in fact” test. This test states that a lake or stream must have been susceptible to being used in its ordinary and natural condition as a highway for commerce on the date a state is admitted into the Union. If a lake or stream was navigable in fact at the time of statehood, the state holds the title to the beds and banks below the ordinary high water mark. A historical factual inquiry is usually necessary to determine whether, or not a stream was navigable in fact at the time of statehood. Only the State Land Board and the courts have the authority to determine whether a body of water is navigable for Title.

Navigable Lake - Any permanent body of relatively still or slack water, including man-made reservoirs, not privately owned and not a mere marsh or stream eddy, and capable of accommodating boats or canoes. This definition does not include man-made reservoirs where the jurisdiction thereof is asserted and exclusively assumed by a federal agency ([IDAPA 20.03.04.010.24](#)). See Attachment 2 for a complete list.

Navigable River – See [Attachment 2](#) for a complete list

Party - Each person or agency named or admitted as a party, or property seeking and entitled as of right to be admitted as a party to a hearing on an application for an encroachment ([IDAPA 20.03.04.010.25](#)).

Person - A partnership, association, corporation, natural person, or entity qualified to do business in the state of Idaho and any federal, state, tribal, or municipal unit of government ([IDAPA 20.03.04.010.26](#)).

Pier – A navigational encroachment that most often has two (2) or more components, is a stationary structure extending into water, is used as a mooring area, and is limited in size ([Attachment 1](#)).

Piling - A metal, concrete, plastic, or wood post that is placed into the lakebed and used to secure floating docks and other structures ([IDAPA 20.03.04.010.27](#)) ([Attachment 1](#)).

Plans - Maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same ([IDAPA 20.03.04.010.28](#)).

Public Hearing - The type of hearing where members of the public are allowed to comment, in written or oral form, on the record at a public meeting held at a set time and place and presided over by a designated representative of the Department who shall act as the hearing coordinator. This type of hearing is an informal opportunity for public comment and does not involve the presentation of witnesses, cross examination, oaths, or the rules of evidence. A record of any oral presentations at such hearings will be taken by the Department by tape recorder. The hearing coordinator shall exercise such control at hearings as necessary to maintain order, decorum and common courtesy among the participants ([IDAPA 20.03.04.010.29](#)).

Public Trust Doctrine - The duty of the State to its people to ensure that the use of public trust resources is consistent with identified public trust values. This common law doctrine has been interpreted by decisions of the Idaho Appellate Courts and is codified at [Title 58, Chapter 12](#), Idaho Code ([IDAPA 20.03.04.010.30](#)).

Pylon - A metal, concrete, or wood post that is placed into the lakebed and used to support fixed piers ([IDAPA 20.03.04.010.31](#)) ([Attachment 1](#)).

Ramp – A passage from the uplands or a pier to the moorage area of a dock. The recommended maximum width is three (3) feet. Ramps are navigational encroachments ([Attachment 1](#)).

Riparian or Littoral Owner - The fee owner of land immediately adjacent to a navigable lake, or his lessee, or the owner of riparian or littoral rights that have been segregated from the fee specifically by deed or grant ([IDAPA 20.03.04.010.33](#)).

Riparian or Littoral Rights - The rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake ([IDAPA 20.03.04.010.32](#)).

Riparian or Littoral Right Lines - Lines that extend waterward of the intersection between the artificial or ordinary high water mark and an upland ownership boundary to the line of navigation. Riparian or littoral right lines will generally be at right angles to the shoreline ([IDAPA 20.03.04.010.34](#)).

Riprap – A layer of rock placed along the existing shoreline to stop erosion. Rock material used shall be sound, dense, durable, angular rock fragments, that are resistant to weathering and free from quantities of soil, shale, or organic matters. Riprap must be appropriately sized, graded and placed to resist movement from current or wave action ([IDAPA 20.03.04.015.08](#)). Riprap is a nonnavigational encroachment and is processed under Idaho Code 58-1306.

Side Tie - Moorage for watercraft where the dock or pier is on only one (1) side of the watercraft ([IDAPA 20.03.04.010.35](#)).

Single-Family Dock - A structure providing noncommercial moorage that serves one (1) waterfront owner whose waterfront footage is no less than twenty-five (25) feet ([IDAPA 20.03.04.010.36](#)). Single-family docks are navigational encroachments and are usually processed under Idaho Code 58-1305.

Slip - Moorage for boats with pier or dock structures on at least two (2) sides of the moorage ([IDAPA 20.03.04.010.37](#)).

Submerged Lands - The state-owned beds of navigable lakes, rivers and streams below the natural or ordinary high water marks ([IDAPA 20.03.04.010.38](#)).

Two-Family Dock - A structure providing noncommercial moorage that serves two (2) adjacent waterfront owners having a combined waterfront footage of no less than fifty (50) feet. Usually the structure is located on the common littoral property line ([IDAPA 20.03.04.010.39](#)). Two-family docks are navigational encroachments and are usually processed under Idaho Code 58-1305.

Upland - The land bordering on navigable lakes, rivers, and streams ([IDAPA 20.03.04.010.40](#)).