

STATE BOARD OF LAND COMMISSIONERS

February 16, 2021

Regular Agenda

Subject

Negotiated rulemaking for IDAPA 20.03.09 *Easements on State-Owned Submerged Lands and Formerly Submerged Lands*

Question Presented

Shall the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.09 *Easements on State-Owned Submerged Lands and Formerly Submerged Lands*?

Background

The Idaho Department of Lands (Department) manages the beds of navigable lakes and rivers for the benefit of the public. IDAPA 20.03.09 establishes a consistent process to authorize specific uses of state-owned submerged lands. These uses include bridges, utility crossings, and some dams.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2021 for review during the 2022 legislative session.

Discussion

The Department anticipates reducing the overall regulatory burden by reducing both total word count and the number of restrictive words in the new rule chapter. The Department will review the rule with stakeholders to ensure that it is right-sized. Preliminary research justifies increasing the application fee and assignment fee to cover the actual costs of processing. These fees have not changed since they were approved in 1993.

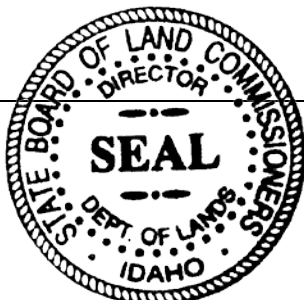
A proposed timeline for the rulemaking process is provided in Attachment 1.

Recommendation

Authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.09 *Easements on State-Owned Submerged Lands and Formerly Submerged Lands*.

Board Action

A motion was made by Attorney General Wasden that the Land Board adopt the Department recommendation that is the Land Board authorize the Department to initiate negotiate rulemaking for IDAPA 20.03.09 *Easements on State-Owned Submerged Lands and Formerly Submerged Lands*. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.



Attachments

1. Draft rulemaking timeline



Draft Rulemaking Timeline

IDAPA 20.03.09

Easements on State-Owned Submerged Lands and Formerly Submerged Lands

February 16, 2021	Approval from Land Board to start negotiated rulemaking (regular agenda)
March 5, 2021	Last day to submit <i>Notice of Intent to Promulgate Rules</i> to the Office of the Administrative Rules Coordinator (OARC) for publication in April
March 2021	Post information on IDL website about this rulemaking
April 7, 2021	<i>Notice of Intent to Promulgate Rules</i> publishes in the Idaho Administrative Bulletin; public comment period opens
May 5, 2021	Negotiated rulemaking public meeting in Boise and via Zoom
May 12, 2021	Negotiated rulemaking public meeting in Boise and via Zoom
June 30, 2021	End of comment period for negotiated rulemaking
July 20, 2021	Present update on this rulemaking to the Land Board (information agenda)
August 16, 2021	Last day to submit proposed rule to DFM for the 2022 Legislature
August 30, 2021	Last day to submit <i>Notice of Proposed Rule</i> to OARC for the 2022 Legislature
October 6, 2021	Proposed rule publishes in the Idaho Administrative Bulletin and 21-day public comment period begins
October 13, 2021	Public hearing
October 27, 2021	End of public comment period on proposed rule
November 16, 2021	Request approval from Land Board to adopt pending fee rule (regular agenda)
November 26, 2021	Last day to submit <i>Notice of Pending Fee Rule</i> to OARC for publication in January 2022 Administrative Bulletin
	Pending fee rule to be reviewed during the 2022 legislative session

Note: All dates are subject to change.