

# STATE BOARD OF LAND COMMISSIONERS

February 15, 2022

Regular Agenda

## Subject

Negotiated rulemaking for IDAPA 20.03.17 *Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands*

## Question Presented

Shall the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.17 *Rules Governing Leases 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 20.03.17 establishes a consistent process to authorize specific encroachments on state-owned submerged lands and collect annual rent for their use. These uses typically include marinas, community docks, nonnavigational encroachments, and oversized private docks, which occupy the state's lakes.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2022 for review during the 2023 legislative session.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 2008.

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

## Recommendation

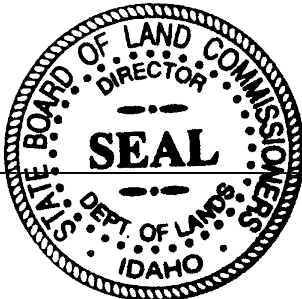
Authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.17 *Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands*.

## Board Action

A motion was made by Attorney General Wasden that the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.17 *Rules Governing Leases 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 20.03.17

### Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands

February 15, 2022	Approval from Land Board to start negotiated rulemaking (regular agenda)
March 11, 2022	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 2022	Post information on IDL website about this rulemaking
April 6, 2022	<i>Notice of Intent to Promulgate Rules</i> publishes in the Idaho Administrative Bulletin; negotiated rulemaking and public comment period begins
April 13, 2022	Negotiated rulemaking public meeting in McCall and via Zoom
May 18, 2022	Negotiated rulemaking public meeting in Coeur d'Alene and via Zoom
June 17, 2022	End of comment period for negotiated rulemaking
July 19, 2022	Present update on this rulemaking to the Land Board (information agenda)
July 22, 2022	Last day to submit proposed rule to DFM for the 2023 Legislature
August 5, 2022	Last day to submit <i>Notice of Proposed Rule</i> to OARC for the 2023 Legislature
September 7, 2022	Proposed rule publishes in the Idaho Administrative Bulletin and 21-day written public comment period begins
September 21, 2022	Deadline to request a public hearing on proposed rule
September 28, 2022	End of written public comment period on proposed rule
October 18, 2022	Request approval from Land Board to adopt pending fee rule (regular agenda)
November 10, 2022	Last day to submit <i>Notice of Pending Fee Rule</i> to OARC for publication in December 2022
	Pending fee rule to be reviewed during the 2023 legislative session

*Note:* All dates are subject to change.