

Welcome to Rulemaking!

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IDAPA 20.03.17  
Rules Governing Leases on  
State-Owned Submerged Lands and  
Formerly Submerged Lands



# Agenda

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- Welcome and Introductions
- Rulemaking
- Participation & guidance
- Draft Changes to Negotiated Rule
- Discussion
- Next Steps

**IDAHO CONSTITUTION**

**LEGISLATIVE STATUTES (IDAHO CODE)**

**STATE AGENCY RULES (ADMINISTRATIVE CODE)**

**POLICIES**

**PROCEDURES**

**GUIDELINES AND OTHER WRITTEN INTERPRETATIONS**



# Public Participation

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<https://www.idl.idaho.gov/rulemaking/docket-20-0317-2201/>

- Idaho Administrative Bulletin
- Postcard, GovDelivery emails
- Public Meetings
- Comments
  - [rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov)
  - Online Comment Form
  - 300 N. 6<sup>th</sup> St., Suite 103 – Boise ID 83720



# Guidelines for Success

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- Stay on topic
- Be respectful of others (raise hand / take turns speaking)
- Keep comments brief and relevant
- Offer specific wording suggestions



# Zero-Based Regulation

## Red Tape Reduction

Ensure Idaho regulations remain streamlined, user-friendly, and easy to understand.

Rule Text	Word Count	Restrictive Words	must	may not	required
Current Rule Text	3907	34	14	2	18
IDL Draft	3293	24	10	0	14
Reductions	- 614 (15.7%)	- 10 (29.4%)	4	2	4

# Changes to Draft Rule Text (1 of 4)

## Reduction to Overall Word Count

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- ~~20.03.17.001.01. **Title.** These rules are titled IDAPA 20.03.17, “Rules Governing Leases on State Owned Submerged Lands and Formerly Submerged Lands.”~~
- ~~20.03.17.003.010.01 **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.~~
- ~~20.03.17.070. **Liability and Indemnity.** A lessee will indemnify and hold harmless the lessors, its departments, agencies and employees for any and all claims, actions, damages, costs, and expenses that may arise by reason of lessee’s occupation of the leased premises, or the occupation of the leased premises by any of the lessee’s agents, or by any person occupying the same with the lessee’s permission.~~



# Changes to Draft Rule Text (2 of 4)

## Efficiency

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- 20.03.17 – RULES GOVERNING LEASES ON STATE-OWNED SUBMERGED LANDS AND FORMERLY SUBMERGED LANDS NAVIGABLE WATERWAYS
  - ~~20.03.17.010.11. Formerly Submerged Lands.~~ The beds of navigable lakes, rivers, and streams that have either been filled or subsequently became uplands because of human activities including construction of dikes, berms, and seawalls. Also included are islands that have been created on submerged lands through natural processes or human activities since statehood, July 3, 1890.



# Changes to Draft Rule Text (2 of 4)

## Efficiency

- **20.03.17.020.01. Single-Family ~~or Two-Family~~ Docks.** ~~Single-family or two-family docks that were constructed: on or before July 1, 1993, that occupy less than eleven hundred (1,100) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained.~~

a. On or before July 1, 1993, that occupy less than eleven hundred (1,100) square feet of dock surface area for which all required permits and approvals have been obtained.

b. After July 1, 1993, that occupy less than seven hundred (700) square feet of dock surface area for which all required permits and approvals have been obtained.

**02. Single-Family Docks.** ~~Single-family docks that were constructed after July 1, 1993, that occupy less than seven hundred (700) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained.~~

**03. Two-Family Docks.** Two-family docks that were constructed after July 1, 1993, that occupy less than eleven hundred (1,100) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained.

# Changes to Draft Rule Text (3 of 4)

## Fee Increase

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- 20.02.17.030. **LEASE APPLICATION, FEE, AND PROCEDURE.**

**01. Fee.** The non-refundable lease application fee is ~~one hundred fifty~~ four hundred twenty-five dollars (~~\$150~~425) for new and existing encroachments.

- 20.02.17.055. **ASSIGNMENTS, ASSIGNMENT FEE.**

**02. Assignment Fee.** The assignment fee is ~~one hundred fifty dollars~~ two hundred dollars (~~\$150~~200).

Leasing Administrative Fees		
Program: Submerged Land	Current	Proposed
Assignment Fee	\$ 150	\$ 200
Application Fee	\$ 150	\$ 425



# Fee Increase

Lease Application/Renewal Process		
Step	Cost (\$)	Time (hr) Avg
Education/Correspondence	\$ 30.33	0.75
Date stamp & Deposit fee	\$ 14.67	0.50
Process Payment	\$ 14.67	0.50
Review application & data	\$ 80.88	2.00
Enter Record into Landfolio	\$ 53.92	1.33
Inspect Site	\$ 107.84	2.67
Write up & issue Compliance Report	\$ 60.66	1.50
Correspondence w. Applicant/Finalize Lease	\$ 30.33	0.75
Issue Lease	\$ 29.34	1.00
Total	\$ 422.64	11.00
	\$ 425.00	

Lease Assignment Process		
Step	Cost (\$)	Time (hr) Avg
Education/Correspondence	\$ 30.33	0.75
Receive Assignment, date stamp & deposit fee	\$ 14.67	0.50
Process payment	\$ 14.67	0.50
Review application & data	\$ 60.66	1.50
Enter into Landfolio	\$ 53.92	1.33
Issue assignment	\$ 29.34	1.00
Total	\$ 203.59	5.58
	\$ 200.00	

# Changes to Draft Rule Text (4 of 4)

## Appraisals

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- 20.03.17.045. **APPRAISAL PROCEDURES.** Appraisals may be used to determine the market value of adjacent uplands for calculating submerged lease rental rates.
- ~~01. **Appraisal.**~~ An appraisal will ~~either be performed by qualified Department staff or an independent contract appraisal.~~ Any appraisal must be under the control of the Department be conducted by a licensed appraiser selected by the Department, although the applicant may propose an appraiser to the Department. The Department will provide appraisal instructions. The appraisal will be performed in a timely manner, and a copy sent to the Department and the applicant. The expense of the appraisal will be borne by the applicant.



# Next Steps

- April 27 Public meeting – McCall, ID
- May 18 Public meeting – Coeur d'Alene, ID
- June 17 Public's deadline to submit comments to IDL
- July 19 IDL update to Land Board
- September 7 Proposed rule published in Bulletin and start of 21-day public comment period
- September 28 Deadline to submit comments to the Bulletin
- October 18 Present pending rule to Land Board
- 2023 Present pending rule to 2023 Legislature

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Thank you for your input today!

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Idaho Department of Lands · Navigable Waterways Program

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