

# STATE BOARD OF LAND COMMISSIONERS

March 21, 2023

Regular Agenda

## Subject

Negotiated rulemaking for IDAPA 20.01.01 *Rules of Practice and Procedure Before the State Board of Land Commissioners*

## Question Presented

Shall the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.01.01 *Rules of Practice and Procedure Before the State Board of Land Commissioners*?

## Background

Since IDAPA 20.01.01 governs the practice and procedure in contested cases before the State Board of Land Commissioners (Land Board) and the Idaho Department of Lands (Department), it protects citizens' due process rights.

This rule chapter implements the following statutes passed by the Idaho Legislature:

[Idaho Code § 58-104 State Land Board – Powers and Duties](#)

[Idaho Code § 67-5206\(5\)\(b\) – Promulgation of Rules Implementing Administrative Procedure Act](#)

## Discussion

Following Executive Order 2020-01, Zero-Based Regulation, IDAPA 20.01.01 was scheduled to be repealed and replaced in 2022 for review during the 2023 legislative session. The Land Board authorized negotiated rulemaking at its April 19, 2022 regular meeting. The passage of House Bill 629 during the 2022 legislative session prompted the Department to postpone rulemaking on this rule chapter, until the Office of Administrative Hearings was established.

The Department is now prepared to move forward with negotiated rulemaking. With Land Board authorization IDAPA 20.01.01 will be repealed and replaced in 2023 for review during the 2024 legislative session.

The Department seeks to reduce the word count in this rule chapter by incorporating by reference rules under development by the Office of Administrative Hearings and reducing the use of restrictive words.

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

## Recommendation

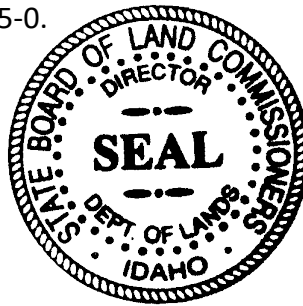
Authorize the Department to initiate negotiated rulemaking for IDAPA 20.01.01 *Rules of Practice and Procedure Before the State Board of Land Commissioners*.

## Board Action

A motion was made by Secretary of State McGrane that the Land Board authorize the Department to initiate negotiated rulemaking. Superintendent Critchfield seconded the motion. The motion carried on a vote of 5-0.

## Attachments

1. Draft rulemaking timeline





## Draft Rulemaking Timeline

IDAPA 20.01.01

### Rules of Practice and Procedure Before the State Board of Land Commissioners

March 21, 2023	Approval from Land Board to start negotiated rulemaking (regular agenda)
April 7, 2023	Last day to submit <i>Notice of Intent to Promulgate Rules</i> to the Office of the Administrative Rules Coordinator (OARC) for publication in May
April 2023	Post information on IDL website about this rulemaking
May 3, 2023	<i>Notice of Intent to Promulgate Rules</i> publishes in the Idaho Administrative Bulletin; negotiated rulemaking and public comment period begins
May 10, 2023	Negotiated rulemaking public meeting in Boise and via Zoom
May 24, 2023	End of comment period for negotiated rulemaking
June 23, 2023	Last day to submit proposed rule to DFM for the Bulletin Publication in August
July 7, 2023	Last day to submit <i>Notice of Proposed Rule</i> to OAR for the 2024 Legislature
August 2, 2023	Proposed rule publishes in the Idaho Administrative Bulletin and 21-day written public comment period begins
August 16, 2023	Deadline to request a public hearing on proposed rule
August 23, 2023	End of written public comment period on proposed rule
October 17, 2023	Request approval from Land Board to adopt pending rule (regular agenda)
November 9, 2023	Last day to submit <i>Notice of Pending Rule</i> to OARC for publication in December 2023
	Pending rule to be reviewed during the 2024 legislative session.

*Note:* All dates are subject to change.