

Negotiated Rulemaking Meeting Summary – May 10, 2023

Name of Negotiated Rulemaking: Rules of Practice and Procedures Before the State Board of Land Commissioners (IDAPA 20.01.01)

Docket number: 20-0101-2301

Location: Boise Staff Office, Garnet Conference Room, Idaho, and on Zoom/teleconference.

Date/Time: Wednesday, May 10, 2023 – from 9:00 am to 9:10 am MT

Attendees: See participant list

Facilitated by: Scott Phillips, Policy and Communications Chief – Idaho Department of Lands (IDL)

This meeting is the first of two scheduled meetings during the Negotiated public comment period, from May 3 to May 31, 2023.

Mr. Phillips provided an overview of the rulemaking process and reviewed the recommended changes to the rules.

Discussion:

The purpose of the public meeting was to provide an opportunity for the public to comment on proposed changes to the rules under the Governor's Zero-Based Regulation initiative. As part of this initiative, the Idaho Department of Lands conducts a comprehensive review every five years, replacing five or 20% of the rules each year. The focus of the meeting was on a specific Chapter of Rules - IDAPA 20.01.01, and the Idaho Department of Land, took a proactive approach to streamline the language and reduce word count by incorporating certain rules by reference.

During the presentation, Scott Phillips explained the rationale behind the draft changes, aiming to reduce word count and regulatory burden associated with IDAPA 20.01.01 by referencing the Attorney General's rules.

The conversation also addressed the recent passing of House Bill 629 during the 2022 legislative session, which established the Idaho Office of Administrative Hearings. This New Office is responsible for handling all contested cases for state agencies and is in the process of developing rules that will eventually replace the Attorney General's rules. The Attorney General's rules automatically apply to state agencies unless they actively exempt themselves. Therefore, the Attorney General's rules will eventually be substituted by the rules of the Idaho Office of Administrative Hearings.

Participants discussed the comparison between the existing rules and the Attorney General's rules, with a table in the draft copy of the rules highlighting any deviations. The objective is to eliminate redundant language and align with identical wording in the Idaho Administrative Rules.

Several important deadlines were highlighted, including a second public meeting in Boise and through Zoom scheduled for May 17.

The deadline for public comments during the negotiated rulemaking phase is May 31. The request to the Governor's Division of Financial Management must be made by June 23 for publication in the August Bulletin. The proposed rulemaking process will commence on August 2 with the publication of the proposed rule in the Administrative Bulletin. A written public comment period will begin on August 2 and will conclude on August 23, 2023.

All updates and information will be made available on the IDL website.

During the meeting, one participant, Mr. Will Tiedemann inquired about any rules being moved or other changes. The response clarified that the only significant change involves incorporating the Attorney General's rules by reference. Efforts are being made to ensure the proper implementation of these changes.

Lastly, it was emphasized that no changes have been made that would impact the due process rights of citizens, as the referenced Attorney General's rules and the removal of excess language from the current rules are consistent with each other.