

Negotiated Rulemaking Summary

IDAPA 20.05.01, Rules Pertaining to the Recreational Use of Endowment Land

Docket No. 20-0501-2301 (New Chapter)

The Idaho Department of Lands (IDL) administers these rules under Public Lands (Title 58, Chapters 1 through 14, Idaho Code). IDAPA 20.05.01 allows for responsible recreation use of endowment lands.

Negotiated rulemaking for a new rule chapter related to the recreational use of endowment land was approved by the Land Board on April 18, 2023. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the Idaho Administrative Bulletin on June 7, 2023.

Stakeholder Outreach

The IDL's outreach for negotiated rulemaking included the following:

- Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin.
- Created a rulemaking webpage to post the draft rule, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0501-2301/>).
- Issued a press release.
- Posted meeting information on social media.
- Sent email or text messages about the meetings to almost 2,500 stakeholders.

Negotiated Rulemaking Public Meetings

Two public meetings were held to discuss the draft rule:

- **June 22, 2023 public meeting in Boise (and Zoom)**
 - 11 participants
 - Affiliations: Canyon County ATV Club, Mountain Home ATV Club & Idaho State ATV Association, Idaho Fish and Game Commission, Idaho Department of Fish and Game, Idaho Department of Parks and Recreation, Sawtooth Law Offices, Idaho Rivers United
- **July 10, 2023 public meeting in Coeur d'Alene (and Zoom)**
 - 7 participants
 - Affiliations: Idaho Wildlife Foundation, Idaho Sportsmen, ISDA Range, Idaho Department of Fish and Game, Idaho Cattle Association & Federal Woolgrowers Association

Negotiated rulemaking meetings were held on June 22 and July 10, 2023, to discuss the draft rule and receive comments from interested parties. The public meetings, one in Boise and one in Coeur d'Alene, included a Zoom option for remote participation.

The discussion focused on regulated uses of endowment lands. Camping regulations were centered around the radius of the distance a person must move their belongings following a 14-day stay within a period of 28-day consecutive days. The initial relocation radius was ten (10) miles. Several participants thought that was too great of a distance to move, particularly for hunters. Participants also recommended consistency of camping spot relocation distance with other land management agencies. The required relocation radius required by other land management agencies varies not only by land

management agency but also from district to district. The research showed the most consistent relocation radius is five (5) miles from the current camping location. From the research and discussion, the camping radius was adjusted to five (5) miles. An addition to camping regulations included defining the size of a campfire ring as being no more than three (3) feet in diameter.

Discussions about the Roads and Trails section of the draft rules led to the removal of citing for the creation of two-inch ruts and the difficulty of enforcing that section of the rule.

It was recommended the Gates and Fences section include a modification, adding blocking of gates and fences, including livestock handling equipment. These changes were included to address persistent access problems, occurring intentionally or unintentionally.

Clarifying regulation of Motorized and Mechanized was a discussion of interest, and a new section was added to clearly identify where motorized and mechanized use is permitted to travel.

Litter was another topic of concern in the meetings, as the increasing number of people in the forest, including long term campers, has created additional challenges. Meeting participants recommended the section be expanded to include two subsections, addressing the disposal of human waste.

Written Comments

Many of the written comments submitted were by meeting participants, as requested by IDL to help ensure their comments were correctly captured and allow them to expand on their comment if needed. In addition to meeting participant comments, comments from interested parties who were unable to attend were also received. Aside from comments suggesting changes, several letters of support and expressing the need for the rule were also received.

In addition to reiterations of meeting verbal comments, adding fire restrictions to the rule was recommended as a need for a proactive approach rather than the current reactive approach. These comments were considered and added to the rule.

The applicability of these rules to recreation use on endowment lands were modified and improvements made to the original document.

Concluding Negotiated Rulemaking

IDL concluded the negotiated rulemaking process and submitted the revised draft rule for publication as a proposed rule in the October 4, 2023, edition of the Idaho Administrative Bulletin. Key documents from the rulemaking record, including written public comments, are available at <https://www.idl.idaho.gov/rulemaking/docket-20-0501-2301/>

Response to Comments on Draft Rule – Negotiated Rulemaking
IDAPA 20.05.01, Rules Pertaining to the Recreational Use of Endowment Land

Topic	Comment	Affiliation	Commentor	Response to comments
Letter of Support	Letter of Support	Idaho Sportsmen	Benn Brocksome	Your support for the Department Recreation Rule is greatly appreciated.
Letter of Support	Letter of Support	Private Citizen	Brenda Stibal	Your support for the Department Recreation Rule is greatly appreciated.
Letter of Support	Letter of Support	Private Citizen	Jack Wassard	Your support for the Department Recreation Rule is greatly appreciated.
Letter of Support	Letter of concern/support for better regulation	Private Citizen	Jim McIver	Your support for the Department Recreation Rule is greatly appreciated. Most of the regulations in your letter are already addressed in other statutes and IDAPA rules. Unauthorized trail construction is addressed in the Recreation Rules.
Letter of Support	Support 100%	Boise ATV /UTV Trail Riders	Jim Maxey	Your support for the Department Recreation Rule is greatly appreciated.
Letter of Support	Wants stronger violations and a reward for people turning others in	Idaho Chukar Foundation	Drew Wahlin	The new rule if passed will address your concerns with a graduated approach, by increasing penalties for repeat offenders.

Topic	Comment	Affiliation	Commentor	Response to comments
Add to definitions	What is the understanding of what creating a trail is? What constitutes creating a trail? Is it cutting brush? Is it cutting dirt? Suggest a definition of what constitutes as creating a trail.	Inland Empire Paper	Paul Buckland	An additional definition was added to the document, defining what is considered constructing a road or trail travel way.
Definition of Endowment Lands	Does this definition include lands the state has traded? Is it limited to the lands granted at statehood? A better definition please.	Idaho Outfitter and Guides	Jeff Britton	The definition was modified to cover a broader definition of endowment lands.
Camping	In Section 020.02, the IDL should consider adding a specific statement that 'residing on endowment lands is not permitted'	Theodore Roosevelt Conservation Partnership	Rob Thornberry	Camping on endowment lands was clarified in the definitions and under <u>Regulated Uses of Endowment Land</u> , under 01. and 02.
Camping Limits	IDL should investigate rules for camping limits on nearby federally managed public lands and match its language for Camping limits with that of federal agencies.	Theodore Roosevelt Conservation Partnership	Rob Thornberry	Both camping limits and relocation distances vary from area to area for both federal and state land management. The rule was adjusted to reflect the most common time and distances.
Camping	IDL should investigate rules for camping limits on nearby federally managed public lands and match its language for Camping limits with that of federal agencies.	Idaho Wildlife Foundation and Trout Unlimited	Garrett Visser and Michael Gibson	Both camping limits and relocation distances vary from area to area for both federal and state land management. The rule was adjusted to reflect the most common time and distances.
Additional Camping Language	Residing on IDL lands is not permitted, unless a lease permits such activity.	Idaho Wildlife Foundation and Trout Unlimited	Garrett Visser and Michael Gibson	The recreation rule scope was adjusted to identify that permits and leases are not regulated under this rule.

Topic	Comment	Affiliation	Commentor	Response to comments
Continued Camping	Consider adding "or under permit" at the end. Many Outfitters will have a permit which allows for a longer period of use.	Idaho Outfitter and Guides	Jeff Bitton	The recreation rule scope was adjusted to identify that permits and leases are not regulated under this rule.
Roads and Trails Additional Subsection	It does not explicitly state that motorized and mechanized travel is <i>only</i> permitted on IDL-designated roads and trails, meaning that these forms of recreation are not permitted off any IDL-designated road or trail. We recommend the addition of a separate subsection that clarifies this, with language such as "Motorized/Mechanized Use: Motorized and mechanized travel is permitted only on Idaho Department of Lands designated roads and trails."	Idaho Wildlife Foundation and Trout Unlimited	Garrett Visser and Michael Gibson	An additional Subsection Motorized and Mechanized use was added to address use restrictions.
Roads and Trails	"Motorized/Mechanized Use: Motorized and mechanized travel is permitted only on Idaho Department of Lands designated roads and trails."	Idaho Wildlife Foundation and Trout Unlimited	Garrett Visser and Michael Gibson	An additional Subsection Motorized and Mechanized use was added to address use restrictions.
Roads and Trails	In Section 020.03, the TRCP encourages IDL to be more direct, adding language that makes it clear motorized and mechanized travel is limited to designated routes.	Theodore Roosevelt Conservation Partnership	Rob Thornberry	An additional Subsection Motorized and Mechanized use was added to address use restrictions.
Roads and Trails	Consider adding "unless otherwise permitted" at the end. Many Outfitters will have a permit for the use of roads after the normal road closure time. IE cougar hunts, wolf hunting, over snow use.	Idaho Outfitter and Guides	Jeff Bitton	The recreation rule scope was adjusted to identify that permits and leases are not regulated under this rule.

Topic	Comment	Affiliation	Commentor	Response to comments
Roads and Trails	Wants some sort of distance like 150' for off trail travel to retrieve game or camp during hunting season.	Idaho Recreation Council	David Claiborne	The recreation rule scope was adjusted to identify that permits and leases are not regulated under this rule.
Gates and Fences	Add livestock movement to 020.03(f) so as prevent livestock from freely moving down a trail or road. Obstructions will occur, but if a person is intentionally moving the livestock in the wrong direction, it can be a significant detriment. Additionally, IWGA would encourage either the word "corral" or "livestock handling equipment" to be added to 020.03 (Gates and Fences). This would clear any confusion if a recreator or user of endowment land parked a vehicle in front of a corral or damaged a corral or any other livestock handling equipment located on public lands.	Idaho Wool Growers Association	John Peterson, Patxi Larrocea-Philips, and Liz Wilder	Gates and fences are addressed in statute 18-7012. This section of rule was modified to address the concern of blocking access.
Gates and Fences	"Corral" or "livestock handling equipment" to be added to section 020.03 (Gates and Fences). This would clear any confusion if a recreator or user of endowment land parked a vehicle in front of a corral or damaged a corral or any other livestock handling equipment located on public lands.	Idaho Cattle Association	Kim Burton Brackett and Morgan Lutgen	Gates and fences are addressed in statute 18-7012. This section of rule was modified to address the concern of blocking access.

Topic	Comment	Affiliation	Commentor	Response to comments
Fire Additional Topic	We recommend that IDAPA 20.05.01 include the following provision to incorporate by reference the Idaho Fire Restriction Plan and issue warnings or citations to those who engage in prohibited acts during Stage 1 and Stage 2 restrictions. Currently, Idaho law does not penalize those who engage in prohibited actions under the plan on endowment land.	Idaho Firewise	Ivy Dickenson	Fire restrictions were added to the draft for a proactive rather than reactive approach to unwanted fire related activities occurring during stage 1 and stage 2 fire restrictions.
Fire Additional Topic	07. Fire Restrictions. Prohibited acts enumerated in the annual Idaho Fire Restrictions Plan for Stage 1 and Stage 2 fire restrictions apply to endowment land.	Idaho Fire Council	Heather Heward	Fire restrictions were added to the draft for a proactive rather than reactive approach to unwanted fire related activities occurring during stage 1 and stage 2 fire restrictions.
Addition/Comment	A monitoring system, so that these abuses of our lands CAN BE REPORTED.....EASILY.	Private Citizen	Georgene Moore	The recreation rule defines regulated recreation actions allowed on Idaho endowment lands. A system of reporting to monitor abuses will have to be developed outside of the rulemaking process.
Addition/Comment	Would like a system for easy reporting of endowment land abuse.	Private Citizen	Suzan Drumheller	The recreation rule defines regulated recreation actions allowed on Idaho endowment lands. A system of reporting to monitor abuses will have to be developed outside of the rule making process.