

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

Director's Office

20.01.01 – Rules of Practice and Procedure Before the State Board of Land Commissioners

Who does this rule apply to?

The general public.

What is the purpose of this rule?

This rule establishes the practice and procedure in contested cases before the State Board of Land Commissioners and the Idaho Department of Lands.

What is the legal authority for the agency to promulgate this rule?

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

Public Lands Department of Lands:

- [Section 58-104, Idaho Code](#) – State Land Board – Powers and Duties State Government and State Affairs Idaho Administrative Procedure Act:
- [Section 67-5206\(5\)\(b\) Idaho Code](#) – Promulgation of Rules Implementing Administrative Procedure Act

Who do I contact for more information on this rule?

Idaho Department of Lands

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20.01.01 – RULES OF PRACTICE AND PROCEDURE BEFORE THE STATE BOARD OF LAND COMMISSIONERS

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Sections 58-104 and 67-5206(5)(b), Idaho Code.

001. TITLE AND SCOPE.

This chapter is titled IDAPA 20.01.01, “Rules of Practice and Procedure Before the State Board of Land Commissioners.” These rules govern the practice and procedure in contested cases before the Board and the Idaho Department of Lands. These rules do not govern practice and procedure during regular or special meetings of the Board. Furthermore, these rules are not intended to create the substantive right to a contested case hearing; any right to a contested case hearing must be established by other provision of law.

002. PROCEEDINGS GOVERNED.

01. Contested Case. These rules govern procedure before the Board in contested cases, unless otherwise provided by statute, rule, notice or order of the Board.

02. Other Specified Procedures. Where another statute or rule requires specific procedures in a contested case before the Board, such other procedures will preempt these rules to the extent that these rules conflict with the other procedures. To the extent the other statute or rule does not address any matter of practice and procedure set forth in these rules, however, these rules shall govern.

03. Rules Not Applicable to Board Meetings. These rules do not govern practice and procedure before regular or special Board meetings. Board meetings are conducted informally and are not contested case hearings. A person who is dissatisfied with any decision of the Board may apply to appear before and be heard by the Board. Such appearances are informal and minutes will be taken and recorded the same as for regular Board meetings, unless application is made for a contested case hearing. A contested case hearing is available when authorized by statute.

04. a. Right to Contested Case, Board Discretion. The Board may, in its discretion, direct that a contested case hearing be held in a contested case, or on any matter. The Board may, in its discretion, deny any request for a contested case hearing on any matter that is not a contested case.

045. Rules Not Applicable to Proceedings or Public Hearings. These rules do not govern proceedings in any public comment hearing that the Board may direct for the purpose of taking public comment on any matter.

003. OPT OUT OF ATTORNEY GENERAL’S RULES - TABLE.

~~Idaho Department of Lands-The Board~~ declines to adopt the following Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01 as follows for the reasons listed:

Rules Promulgated by the Office of the Attorney General will be followed except the following sections of IDAPA 04.11.01 will be excluded	
420 to 425	Idaho Department of Lands does not have a prosecutorial investigative function.
741	Idaho Department of Lands has no authority to award costs or attorney fees.

004. IDAHO OFFICE OF ADMINISTRATIVE HEARINGS RULES ~~TO SUPERSEDE ATTORNEY GENERAL’S RULES.~~

01. Conditionally declining IDAPA 04.11.01. Upon ~~the effective date of promulgation of~~ rules promulgated by the Idaho Office of Administrative Hearings to govern the practice and procedure in contested cases, ~~Idaho Department of Lands~~ the OAH rules will govern ~~will decline to adopt IDAPA 04.11.01 contested case proceedings which have been delegated or assigned (whether statutorily or by the Board) to the director of IDL or his designee in whole. These~~

Summary of Key Changes Since 5/9/23 Draft

- Section 003.** This section of the 5/9/2023 draft opted out of using Sections 420 to 425 of IDPA 04.11.01 in IDL's rule. The version of IDAPA 20.02.01 that is currently in effect does not include the AG's prosecutorial/investigative rules present in Sections 420 to 425 of IDAPA 04.11.01. Since legal analysis concluded IDL has prosecutorial/investigative functions per Idaho Code sections 38-107, 38-1307, 47-718(1)(c), 47-1318 through 1320, the Lake Protection Act, and others, the portion of the table in Section 003 that opts out of the AG's prosecutorial/investigative rule sections was removed.
- Section 004.** Legal analysis concluded the language used in Section 004 to transition from the AG rules to the new Office of Administrative Hearing rules once they are promulgated required modification. While the wording Section 004 has changed, the intent has not.