

STATE BOARD OF LAND COMMISSIONERS

February 20, 2024

Regular Agenda

Subject

Negotiated rulemaking for IDAPA 20.03.04 *Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*

Question Presented

Shall the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.04 *Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*?

Background

The Idaho Department of Lands (Department) manages encroachments on navigable lakes in Idaho pursuant to Title 58, Chapters 1 and 13, Idaho Code, and IDAPA 20.03.04. This rule protects the state's navigable lakes by setting standards for encroachments. By regulating encroachments, this rule protects property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality.

Encroachments include docks, marinas, piers, buoys, pilings, breakwaters, boat ramps, and other facilities used to support water craft, as well as landfills, bridges, utility lines, float homes, boat garages, and other structures constructed on, in, or above the beds or waters of a navigable lake.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2025 with the goal of simplifying the rules for increased clarity and ease of use. The Department anticipates a high level of public interest in this rulemaking and recommends starting negotiations in the spring of 2024 in order to finish negotiations by the summer of 2025.

Discussion

The Department anticipates reducing the overall regulatory burden by reducing both total word count and the number of restrictive words in the new rule chapter. The Department will review the rule with stakeholders to ensure that it is right-sized.

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

Recommendation

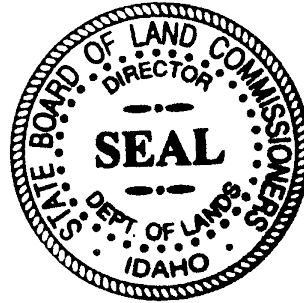
Authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.04 *Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*.

Board Action

A motion was made by Secretary of State McGrane that the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.04 Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho. Controller Woolf seconded the motion. The motion carried on a vote of 4-0.

Attachments

1. Draft rulemaking timeline





Draft Rulemaking Timeline

IDAPA 20.03.04

Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in Idaho

February 20, 2024	Approval from Land Board to start negotiated rulemaking (regular agenda)
February 23, 2024	Last day to submit <i>Administrative Rules Request Form</i> to the Division of Financial Management (DFM) for Bulletin publication in April
March 2024	Post information on Idaho Department of Lands website about this rulemaking
April 3, 2024	<i>Notice of Intent to Promulgate Rules</i> publishes in the Idaho Administrative Bulletin; negotiated rulemaking and public comment period begins
May 2024	Negotiated rulemaking public meeting in Coeur d'Alene and via Zoom
May 2024	Negotiated rulemaking public meeting in Sandpoint and via Zoom
June 2024	Negotiated rulemaking public meeting in McCall and via Zoom
June 2024	Negotiated rulemaking public meeting in Pocatello and via Zoom
June 2024	Negotiated rulemaking public meeting in Jerome and via Zoom
Fall 2024	More rulemaking public meetings as needed
April – June 1 2025	More rulemaking public meetings as needed
June 13, 2025	End of public comment period for negotiated rulemaking
July 15, 2025	Present update on this rulemaking to the Land Board (information agenda)
July 18, 2025	Last day to submit proposed rule to DFM for Bulletin publication in September
August 1, 2025	Last day to submit <i>Notice of Proposed Rule</i> to the Office of the Administrative Rules Coordinator (OARC) for Bulletin publication in September
September 3, 2025	Proposed rule publishes in the Idaho Administrative Bulletin and 21-day written public comment period begins
September 17, 2025	Deadline to request a public hearing on proposed rule
September 24, 2025	End of written public comment period on proposed rule
October 21, 2025	Request approval from Land Board to adopt pending fee rule (regular agenda)
November 7, 2025	Last day to submit <i>Notice of Pending Fee Rule</i> to OARC for publication in December 2025
Winter 2026	Pending fee rule to be reviewed during the 2026 legislative session

Note: All dates are subject to change.