

## Negotiated Rulemaking Meeting Notes – April 24, 2024

**Name of Negotiated Rulemaking:** Rules for the Regulation of Beds, Waters, and Airspace over Navigable Lakes in the State of Idaho (IDAPA 20.03.04)

**Docket number:** 20-0304-2401

**Location:** Sandpoint, Sandpoint Community Center and on Zoom/Teleconference

**Date/Time:** Wednesday, April 24, 2024 – 1:00 p.m. PT

**Attendees:** See participant list

**Facilitated by:** Marde Mensinger, Navigable Waterways Program Manager – Resource Protection and Assistance Bureau, Idaho Department of Lands (IDL)

This is the first of 5 scheduled meetings during the public comment period April 3, 2024 – June 5, 2025.

Marde Mensinger presented an overview of rulemaking and reviewed the draft rule changes.

### Discussion:

- Discussion began with questions about why IDL chose to incorporate the International Fire Code by reference. This is because IDL would like to incorporate standards for marine fueling stations to provide better regulatory permitting guidance. Similarly, there was a question about who would conduct building safety inspections if the county does not have a designated building inspector, which IDL will conduct further research on.
- Questions were asked about the riparian or littoral right lines, and how they are generally at right angles to the shoreline. The question was whether IDL could provide a more specific definition, but ultimately it would be difficult to describe the process fully in the rule. The current definition is open to include other angles to the shoreline.
- There was a question about the types of penalties that could be imposed for those who applied for encroachment permits after building the encroachment. There was discussion around the legality of adding fees, as well as changing the statute to reflect those things. IDL has the authority to level civil penalties and judicial relief in order to address noncompliances. IDL staff explained that for encroachments that are permissible, IDL can permit them after-the-fact, but it would be better to have some sort of penalty to discourage that behavior. IDL will investigate ways to address additional fees for after-the-fact permitting.
- There was a question about whether or not there could be an upper limit on the size of community docks. IDL staff explained that community docks are limited by the amount of shoreline they have as a 7:1 ratio.
- There was also a question about how a commercial marina must have 50% of their moorage available to the public for up to 1-year periods. IDL staff explained that marina owners must not sell their moorage for long-term stretches and claim it as available to the public when it is not represented that way in actual practice.
- There was a question about whether alternative methods besides rip rap would be used for bank stabilization. IDL would be open to hearing about other methods and permitting them if applicants choose to use those methods.
- There was a question about how often float homes are inspected, and the answer is that they need to be inspected when a new application is received, or every 10 years according to their lease.
- There was a discussion about the assignment process and dealing with noncompliant encroachments during the sale of a property. IDL tries to address noncompliances early, but

if permit holders do not reach out to the Department prior to the sale of their property, it is difficult to address that noncompliant encroachment before the sale of the property goes through. The burden is on the applicant to reach out to the Department as early as possible. IDL is going to investigate more educational materials that can be made available for the public to try and get ahead of noncompliant encroachments.

- There were questions about leasing rates, which IDL staff discussed is a change that is made by the Land Board when they set leasing rates. IDL staff also discussed how leasing rates are different based on how much of their marina is available for public use.