

Negotiated Rulemaking Meeting Notes – April 16, 2025

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: Coeur d'Alene, IDL Coeur d'Alene Office and on Zoom/Teleconference

Date/Time: Wednesday, April 16, 2025 – 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 second of 3 scheduled meetings during the public comment period April 3, 2024 – June 13, 2025.

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

Discussion:

- There was an initial question about how the rule applies to navigable rivers. There are rivers that are incorporated into the regulatory authority of IDAPA 20.03.04 via a Memorandum of Understanding with the Idaho Department of Water Resources. Specific to the question asked, the Spokane River is covered by the IDL authority.
- There was some discussion around the artificial high water mark. IDL has authority to regulate encroachments below the artificial high water mark, but only has ownership of the land below the ordinary high water mark.
- A question was raised about the proposed change to the name of the rule to Encroachments on Navigable Lakes. A participant asked if that still applied to encroachments, in, on and over the lake. This is true, and is covered in the scope and policy sections of the rule.
- A question was asked about sunset periods and extensions of those. If an applicant requests an extension of the sunset period, IDL does not send new notice to the neighbors for that.
- There was some discussion around the role that IDL has in determining ownership of uplands, and who the permit is ultimately issued to. For clarification, IDL has no authority to determine upland ownership. If ownership is in dispute, that must be settled outside of the encroachment permitting process. For an existing permit, that would only be revoked through a permit revocation process, which involves a hearing.

After answering some specific questions about permits, the meeting was concluded.