

STATE BOARD OF LAND COMMISSIONERS

November 18, 2025

Regular Agenda

Subject

Adoption of Pending Rule, 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 adopt the pending rule 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) regulates encroachments on navigable lakes pursuant to Title 58, Chapter 13, Idaho Code, and IDAPA 20.03.04.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2025. Negotiated rulemaking for these rules was approved by the State Board of Land Commissioners (Land Board) on February 20, 2024. The Department began negotiations in spring of 2024.

Discussion

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

- Posting Notices in the Idaho Administrative Bulletin, the Department's rulemaking webpage, and Townhall Idaho in 2024 and 2025.
- Sending postcards to all lessees, major real estate associations, and state agencies in 2024 and 2025.
- Sending emails to encroachment permittees, lessees, and state and local agencies.
- Hosting public meetings, each with a video-conferencing option.

In the 8 meetings held over 2024 and 2025, 38 non-Department members attended the meetings in person and 23 attended the meetings virtually.

With no proposed fee increases, the discussion in the meetings centered around the extent to which the Department may regulate encroachments. Department staff fielded many questions about regulatory authority, citing the Lake Protection Act, Title 58, Chapter 13 Idaho Code.

The Department received 42 distinct comments from 11 submissions, which were addressed in the negotiated rulemaking summary, included as Attachment 1.

The proposed rule was published in the September 2025 Administrative Bulletin (Attachment 2). A public hearing was held on September 11, 2025, to solicit public testimony. A total of 3 non-Department members attended the hearing. No attendees provided testimony. Four written comments were received during the proposed rule comment period. A summary of written comments is included as Attachment 3. Several edits to the rule were incorporated based on Department review and grammatical adjustments. Attachment 4 is the draft pending rule consisting of the proposed rule with changes highlighted in yellow.

The pending rule reduces the overall regulatory burden by reducing the total word count and the number of restrictive words. The pending rule includes the following changes:

- 13.48 percent reduction in word count, 27 percent reduced restrictive words. The rule has been reduced by a total of 3 pages.
- Included definitions for common encroachments including breakwater, seawall, water line, residential area, and marine motor fuel dispensing facility.
- Incorporated by reference International Fire Code adopted through IDAPA 18.08.01.

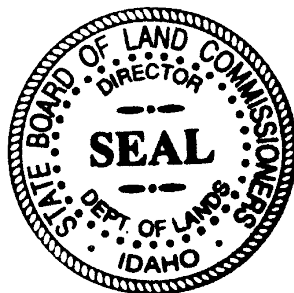
If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Rule (Attachment 5) to the Office of the Administrative Rules Coordinator for the 2026 legislative session.

Recommendation

Adopt the pending rule with changes to the proposed rule text 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 Controller Woolf that the Land Board adopt the pending rule with changes to the proposed rule text for IDAPA 20.03.04, Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho. Secretary of State McGrane seconded the motion. The motion carried on a vote of 5-0.



Attachments

1. Negotiated Rulemaking Summary
2. Notice of Proposed Rulemaking
3. Proposed Rule Comments Summary
4. Pending Rule Text (changes to Proposed Rule)
5. Draft Notice of Rulemaking—Adoption of Pending Rule