



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Resources & Conservation Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: September 18, 2019

SUBJECT: Idaho Department of Lands

IDAPA 20.03.04 - Rules for the Regulation of Beds, Waters, and Airspace over Navigable Lakes in the State of Idaho (Fee Rule) - Proposed Rule (Docket No. 20-0304-1901)

Summary and Stated Reasons for the Rule

The Idaho Department of Lands submits notice of proposed rulemaking (a fee rule) at IDAPA 20.03.04 - Rules for the Regulation of Beds, Waters, and Airspace over Navigable Lakes in the State of Idaho. According to the department, all funding used to manage the beds of navigable waterways comes from the fees and rent collected from the use of these lands, i.e., no general fund tax dollars support this work. The department states that the costs for processing encroachment permit applications for single-family docks, two-family docks, water-intake lines, and assignments exceed the current application fees collected. The department proposes to raise the fees for these four types of applications to ensure fees cover the respective processing costs within statutory limitations. In addition, the department states that Section 58-1305, Idaho Code, does not specify who should provide notice of application to adjacent property owners for all noncommercial navigational encroachments. The rule would prescribe that the department shall provide notice.

Negotiated Rulemaking / Fiscal Impact

The department notes that negotiated rulemaking was conducted.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 58-104, 58-105 and 58-1304, Idaho Code.

cc: Idaho Department of Lands
Amy Johnson

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

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PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho Department of Lands

Agency Contact: Andrew Smyth

Phone: (208) 334-0248

Email: asmyth@idl.idaho.gov

Date: July 12, 2019

IDAPA, Chapter and Title Number and Chapter Name: IDAPA 20.03.04 Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho

Fee Rule Status: Proposed Temporary

Rulemaking Docket Number: 20-0304-1901

STATEMENT OF ECONOMIC IMPACT:

Revenue and expenses associated with administering the Lake Protection Act come from a dedicated fund. No impact to the general fund is expected. The proposed fee increases are estimated to increase annual revenue to the dedicated fund by approximately \$49,475 per year based on the following:

	Single-family dock, Two-family dock & Water intake line	Assignment	Total
Current fee	\$300	\$150	
Cost to process	\$423	\$275	
Proposed fee	\$425	\$300	
Proposed increase	\$125	\$150	
5-yr avg. # of apps/yr	205	159	
Avg. estimated increase	\$25,625	\$23,850	\$49,475

The increase in fees will ensure the full cost of processing these applications is covered by the associated application fee paid by the applicants.