

## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.03.04 – RULES FOR THE REGULATION OF BEDS, WATERS, AND AIRSPACE OVER NAVIGABLE LAKES IN THE STATE OF IDAHO

DOCKET NO. 20-0304-1801

#### NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 58-104(6), 58-105, and 58-1304, Idaho Code.

**MEETING SCHEDULE:** Public meetings on the negotiated rulemaking will be held between June 7, 2018, and August 3, 2018. Scheduled negotiated rulemaking meetings will be posted and made accessible on the agency website at the web address listed below. Please contact Andrew Smyth at (208) 334-0248 or at [asmyth@idl.idaho.gov](mailto:asmyth@idl.idaho.gov) to be added to the email list of interested parties.

The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting, to the agency address below.

**METHOD OF PARTICIPATION:** Interested persons wishing to participate in the negotiated rulemaking may participate by attending any negotiated rulemaking meeting or submitting written comments during the allowed comment period. Comments may be emailed to [comments@idl.idaho.gov](mailto:comments@idl.idaho.gov); in the Subject line, please enter “IDAPA 20.03.04.”

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

Currently, IDAPA 20.03.04.020 requires submission of paper copies of applications for encroachment permits. The Idaho Department of Lands (Department) is developing a web-based portal and information management system that will allow applications to be submitted electronically. The proposed changes would allow applicants to submit applications either on paper or electronically.

Currently, IDAPA 20.03.04.015.05 allows existing permitted boat garages to be maintained or replaced at their current size. The proposed change would allow existing permitted boat garages to be maintained or replaced at the existing height and at the same square footage of the existing footprint.

Currently, IDAPA 20.03.04.020 uses the term “dock rights” to address eligibility to make application for an encroachment permit. The term “dock rights” is not defined in statute or rule. The proposed change would eliminate the use of this term and rely on the use of “riparian rights” and “littoral rights” which are defined in statute and rule.

Section 58-1306, Idaho Code, requires that a notice of application for non-navigational encroachments be published in the local newspaper. Section 58-1307, Idaho Code, provides that the applicant is responsible for the cost of publication. Currently, IDAPA 20.03.04.020 does not indicate the cost of publication is to be paid by the applicant for riprap, a type of non-navigational encroachment. The proposed change would align rule with statute and provide that the publication deposit be submitted with an application to permit riprap.

Currently, IDAPA 20.03.04.080 provides that the Department shall provide permittees with a notice of noncompliance/proposed permit revocation when it has determined the rules have been violated and/or a cause exists for revocation of an encroachment permit. However, non-permittees may be in violation of the rules and should receive notification as well. The proposed change would clarify that the Department shall provide notice to anyone who may be in violation of the rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to request special meeting accommodations or accessibility, contact Andrew Smyth, Public Trust Program Manager at (208) 334-0248. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Department's website at the following web address: <https://www.idl.idaho.gov/rulemaking/index.html>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 3, 2018.

DATED this 6th day of June, 2018.

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