



Terri Kondeff
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 14, 2021
SUBJECT: Idaho Department of Lands

IDAPA 20.03.09 - Easements on State-Owned Navigable Waterways (New Chapter, Fee Rule) - Proposed Rule (Docket No. 20-0309-2101)

Summary and Stated Reasons for the Rule

The Idaho Department of Lands submits notice of proposed rule at IDAPA 20.03.09 - Easements on State-Owned Navigable Waterways. According to the department, the overall regulatory burden has been reduced by decreasing both total word count and the number of restrictive words in this new chapter. The department states that application fees have been increased to cover the costs of reviewing applications, appraisals, if needed, will now be paid for by the applicant and will not be performed by department staff, and the director's approval authority is raised from a compensation of \$10,000 to \$25,000 which corresponds with approval authority for easements on endowment lands.

Negotiated Rulemaking / Fiscal Impact

The department states that negotiated rulemaking was conducted. No fiscal impact is anticipated.

Statutory Authority

The department appears to have rulemaking authority pursuant to Section 58-104, Idaho Code.

cc: Idaho Department of Lands
Amy Johnson
Eric Wilson

*** 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: Eric Wilson **Phone:** (208) 334-0261

Date: July 30, 2021

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 20.03.09, Easements on State-Owned Submerged Lands and Formerly Submerged Lands

Fee Rule Status: X **Proposed** **Temporary**

Rulemaking Docket Number: 20-0309-2101

STATEMENT OF ECONOMIC IMPACT:

The proposed rule will not cost more for the department to implement than the existing rules. Existing easement holders are not affected, only new applicants. This rule will allow the department to recover the costs associated with reviewing and granting easements over state-owned navigable waters. This easement program is funded by the Navigable Waterways Fund, a state dedicated fund. Applicants seeking an easement above, across, over, in, through, upon, or under state-owned navigable waters would pay an application fee of \$500. A workload analysis was used to estimate the time and cost of reviewing and processing easements. Based on that analysis, \$500 is an appropriate fee. This is an increase over the existing fee of \$300. With an average of four easements issued every year, this \$200 increase will cost citizens, utilities, and other government agencies a total of approximately \$800 more per year. No further fees are needed for most easements such as bridges, powerlines, and other utilities because they typically do not result in any additional administrative costs.