

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

Resource Protection and Assistance Bureau

20.03.04 – Rules for Encroachments on Navigable Lakes

Who does this rule apply to?

- Owners of property adjacent to navigable lakes
- Persons wishing to construct encroachments on navigable lakes
- The general public who recreate and otherwise enjoy navigable lakes

What is the purpose of this rule?

This rule protects the state's navigable lakes by setting standards for encroachments. By regulating encroachments, this rule protects property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality.

Encroachments include docks, marinas, piers, buoys, pilings, breakwaters, boat ramps, and other facilities used to support water craft, as well as landfills, bridges, utility lines, float homes, boat garages, and other structures constructed on, in, or above the beds or waters of a navigable lake.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

Public Lands -

Department of Lands:

- [Section 58-104\(6\) and 58-104\(9\), Idaho Code](#) – State Land Board — Powers and Duties
- [Section 58-105, Idaho Code](#) – Director

Navigational Encroachments

- [Title 58, Chapter 13, et seq., Idaho Code](#) – Navigational Encroachments

Idaho Administrative Procedure Act:

- [Title 67, Chapter 52, et seq., Idaho Code](#) – Idaho Administrative Procedure Act

Who do I contact for more information on this rule?

Idaho Department of Lands

300 N. 6th Street, Suite 103

P.O. Box 83720

Boise, Idaho 83720-0050

Phone: (208) 334-0200

Fax: (208) 334-3698

Email: rulemaking@idl.idaho.gov

<https://www.idl.idaho.gov/>

This rule chapter will be reviewed in compliance with Section [67-5292, Idaho Code](#), and in accordance with the 8-year rule review schedule linked [here](#).

Table of Contents

20.03.04 – Rules for Encroachments on Navigable Lakes

000. Legal Authority.	3
001. Scope.	3
002. Administrative Appeals.	3
003. Incorporation By Reference.	3
004. -- 009. (Reserved)	3
010. Definitions.	3
011. Abbreviations.	5
012. Policy.	5
013. -- 014. (Reserved)	5
015. Encroachment Standards.	5
016. -- 019. (Reserved)	11
020. Applications.	11
021. -- 024. (Reserved)	13
025. Processing Of Applications For Single-Family And Two-Family Navigational Encroachments.	13
026. -- 029. (Reserved)	15
030. Processing Of Applications For All Other Types Of Encroachments.	15
031. -- 034. (Reserved)	16
035. Temporary Permits.	16
036. -- 054. (Reserved)	16
055. Leases And Easements.	16
056. -- 059. (Reserved)	17
060. Installation.	17
061. -- 064. (Reserved)	17
065. Assignments.	17
066. -- 069. (Reserved)	17
070. Miscellaneous.	17
071. -- 079. (Reserved)	18
080. Violations - Penalties.	18
081. -- 999. (Reserved)	19

20.03.04 – RULES FOR ENCROACHMENTS ON NAVIGABLE LAKES

000. LEGAL AUTHORITY.

Sections 58-104(6), 58-104(9), 58-105, and 58-127, Idaho Code; Title 58, Chapter 13, Idaho Code; and Title 67, Chapter 52, Idaho Code. (7-1-26)

001. SCOPE.

These rules govern encroachments on, in, or above navigable lakes in the state of Idaho. (7-1-26)

002. ADMINISTRATIVE APPEALS.

Any person aggrieved by any final decision or order of the Board is entitled to judicial review pursuant to Title 58, Chapter 13, Sections 58-1305 and 58-1306, Idaho Code, and Sections 025, 030, and 080 of these rules. (7-1-26)

003. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: (3-18-22)

01. IDAPA 24.39.10, “Rules of the Idaho Electrical Board.” IDAPA 24.39.10 is available at <https://adminrules.idaho.gov/rules/current/24/243910.pdf>. (3-18-22)

02. IDAPA 24.39.20, “Rules Governing Plumbing.” This rule is available at <https://adminrules.idaho.gov/rules/current/24/243920.pdf>. (3-18-22)

03. 33 CFR Part 62, revised as of July 27, 2015 (United States Aids to Navigation System). The Electronic Code of Federal Regulations (eCFR) is available at <https://www.ecfr.gov/cgi-bin/ECFR>. (7-1-26)

04. IDAPA 18.08.01, “Idaho Department of Insurance State Fire Marshal – Adoption of the International Fire Code”. This rule is available at <https://adminrules.idaho.gov/rules/current/18/180801.pdf>. (7-1-26)

004. -- 009. (RESERVED)

010. DEFINITIONS.

Additional definitions can be found in Title 58, Chapter 13, Idaho Code. (7-1-26)

01. **Adjacent.** Contiguous or touching, and with regard to land or land ownership having a common boundary. (3-18-22)

02. **Aids to Navigation (ATON).** Buoys, beacons, warning lights, and other encroachments used to determine position or safe courses. (7-1-26)

03. **Boat Garage.** A nonnavigational encroachment with one (1) or more slips that is completely enclosed with walls, roof, and doors. (7-1-26)

04. **Boat Lift.** A navigational encroachment for mooring boats partially or entirely out of the water. (7-1-26)

05. **Boat Ramp.** A navigational encroachment or improved surface extending below the ordinary or artificial high water mark whereby watercraft or equipment are launched from land-based vehicles or trailers. (7-1-26)

06. **Breakwater.** A navigational encroachment that is designed to protect moorage by reducing wave energy. (7-1-26)

07. **Commercial Marina.** A commercial navigational encroachment whose purpose is to provide at least fifty percent (50%) of its moorage for rental or for free to the general public. (7-1-26)

08. **Commercial Navigational Encroachment.** A navigational encroachment used for commercial purposes. (3-18-22)

09. **Community Dock.** A navigational encroachment that provides private moorage for three (3) or more adjacent littoral owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to homeowner’s associations. No public access is required for a community dock. (7-1-26)

- 10. Covered Slip.** A slip, or group of slips, covered by a frame, canopy, and eaves that do not extend beyond the underlying dock. (7-1-26)
- 11. Department.** The Idaho Department of Lands. (7-1-26)
- 12. Director.** The head of the Idaho Department of Lands or their designee. (7-1-26)
- 13. Dredging.** The removal of earthen material below the ordinary or artificial high water mark. The term “dredging” may also be used interchangeably with “excavating”. (7-1-26)
- 14. Float Home.** A nonnavigational encroachment that is designed and built to be used, or is modified to be used, as a stationary residential dwelling and is not self-propelled. (7-1-26)
- 15. Floating Toys.** Trampolines, inflatable structures, water ski courses, slides, and other nonnavigational recreational equipment that are not permanently anchored to the lake bed and are either located between the shoreline and the line of navigability or are waterward of the line of navigability for less than twenty-four (24) consecutive hours. (7-1-26)
- 16. Jet Ski Ramp, Port, or Lift.** A navigational encroachment for mooring jet skis or other personal watercraft similar to a boat lift. (7-1-26)
- 17. Line of Navigability.** A line located at such distance waterward of the low water mark established by the length of existing legally permitted encroachments, water depths waterward of the low water mark, and by other relevant criteria determined by the Board when a line has not already been established for the body of water in question. (7-1-26)
- 18. Littoral Owner.** The fee owner of land adjacent to a navigable lake, or a lessee, or the owner of littoral rights that have been segregated from the fee specifically by deed, lease, or other grant. (7-1-26)
- 19. Littoral Right Lines.** Lines that extend waterward from the intersection of the artificial or ordinary high water mark and an upland ownership boundary to the line of navigation. (7-1-26)
- 20. Low Water Mark.** That line or elevation on the bed of a lake marked or located by the average low water elevations over a period of years, and marks the point to which the riparian rights of adjoining landowners extend as a matter of right, in aid of their right to use the waters of the lake for purposes of navigation. (3-18-22)
- 21. Marine Motor Fuel-Dispensing Facility.** A nonnavigational encroachment where flammable and/or combustible liquids or gases used as fuel for watercraft are stored and dispensed from fixed equipment on shore, piers, wharves, floats or docks into the fuel tanks of marine craft and includes all other facilities used in connection therewith. (7-1-26)
- 22. Moorage.** A place to secure float homes, boat garages, and watercraft. (7-1-26)
- 23. Party.** Each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party. (3-18-22)
- 24. Person.** Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. (7-1-26)
- 25. Piling.** Posts that are driven into the lakebed and used to secure floating docks and other structures. (7-1-26)
- 26. Public Hearing.** The type of hearing where members of the public and other interested parties or agencies are allowed to comment, in written or oral form, on the record at a public meeting held at a set time and place and presided over by a designated hearing officer. This type of hearing is an informal opportunity for public comment and does not involve the presentation of witnesses, cross examination, oaths, or the rules of evidence. A

recording of any oral presentations at these hearings will be taken. (7-1-26)

27. Public Trust Doctrine. The duty of the State to its people to ensure that the use of public trust resources is consistent with identified public trust values. This common law doctrine has been interpreted by decisions of the Idaho Appellate Courts and is codified at [Title 58, Chapter 12](#), Idaho Code. (3-18-22)

28. Pylon. A post that is placed into the lakebed and used to support encroachments. (7-1-26)

29. Residential Area. Any space used for habitation, whether temporarily or permanently, that may include, but is not limited to sleeping arrangements, cooking appliances, bathroom facilities, living amenities, recreational or entertaining space, or utility connections. (7-1-26)

30. Seawall. A nonnavigational encroachment constructed to prevent erosion to an area of land. (7-1-26)

31. Single-Family Dock. A navigational encroachment providing noncommercial moorage that serves one (1) waterfront owner. (7-1-26)

32. Slip. Moorage for watercraft with pier or dock structures on at least two (2) sides of the moorage. (7-1-26)

33. Submerged Lands. The state-owned beds of navigable lakes, rivers and streams below the ordinary high water mark. (7-1-26)

34. Two-Family Dock. A navigational encroachment providing noncommercial moorage that serves two (2) separate adjacent waterfront owners. (7-1-26)

35. Upland. The land above the ordinary high water mark bordering on navigable lakes, rivers, and streams. (7-1-26)

36. Water Line. A nonnavigational encroachment used to collect or discharge water. (7-1-26)

011. ABBREVIATIONS.

01. O/AHWM. Ordinary or Artificial High Water Mark. (7-1-26)

012. POLICY.

01. Public Trust Resource Protection and Navigational or Economic Necessity, Justification, or Benefit. It is the express policy of the State of Idaho that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. Moreover, it is the responsibility of the Board to regulate and control the use or disposition of state-owned lake beds, to provide for their commercial, navigational, recreational or other public use. (7-1-26)

02. No Encroachments Without Permit. No encroachment on, in or above the beds or waters of any navigable lake may be made without approval as provided in these rules. An encroachment permit may require a submerged land lease. An encroachment permit for a specific activity or encroachment does not guarantee continued use if the activity or encroachment is subsequently found to substantially interfere with navigation or commerce. (7-1-26)

013. -- 014. (RESERVED)

015. ENCROACHMENT STANDARDS.

- 01. Single-Family and Two-Family Docks.** (7-1-26)
- a.** Total waterfront ownership must include at least twenty-five (25) linear feet of shoreline for single-family docks or fifty (50) feet of linear shoreline for two-family docks. (7-1-26)
- b.** No part of the encroachment waterward of the O/AHWM may exceed ten (10) feet in width, excluding the slip cut out. (7-1-26)
- c.** Total surface decking area waterward of the O/AHWM, including approach ramp and walkway, may not exceed seven hundred (700) square feet for a single-family dock or one thousand one hundred (1,100) square feet for a two-family dock. (7-1-26)
- d.** No portion of the encroachment may extend beyond the line of navigability. (7-1-26)
- e.** A variance to the standards in this Subsection 015.01 will only be approved by the Department when justified by site specific considerations. Any variance granted may require a lease per [IDAPA 20.03.17](#). (7-1-26)
- 02. Community Docks.** (3-18-22)
- a.** No part of the encroachment waterward of the O/AHWM may exceed ten (10) feet in width except breakwaters when justified by site specific conditions and approved by the Department. (7-1-26)
- b.** Total waterfront ownership must have at least fifty (50) linear feet of combined shoreline frontage. (7-1-26)
- c.** The surface decking area of the community dock is limited to the greater of seven hundred (700) square feet or the product of the linear feet of the upland shoreline multiplied by seven (7) feet. The Department, in its sole discretion, may limit the surface decking area when site specific considerations justify a reduction to protect public trust resources. (7-1-26)
- d.** The Department may allow the surface decking area of a community dock to exceed the size limitations if the need for a breakwater is demonstrated. (7-1-26)
- e.** A permit is required to convert an existing community dock into a commercial marina. (7-1-26)
- 03. Commercial Marina.** (3-18-22)
- a.** At least fifty percent (50%) of moorage at a commercial marina must be available to the general public on either a first come, first served basis for free or rent, or for lease not to exceed one (1) year. Moorage leases may be renewed annually, not to exceed one (1) year. Public moorage must not require membership in a club or organization. (7-1-26)
- b.** A permit is required to convert an existing commercial marina into any other type of encroachment. Commercial marinas must keep at least fifty percent (50%) of their moorage available to the general public. The permit application must illustrate and clearly depict which is public moorage and which is private moorage. (7-1-26)
- c.** If local city or county ordinances governing parking requirements for marinas have not been adopted, commercial marinas must provide at least one (1) upland parking space per two (2) public watercraft or float home moorages. If private moorage is tied to designated parking spaces or areas, then the commercial marina must provide at least one (1) upland parking space per one (1) private watercraft or float home moorage. In the event of conflict, the local ordinances prevail. (7-1-26)
- d.** Moorage that is not available for public use as described in Paragraph 015.03.a. of these rules is private moorage. (3-18-22)
- e.** When calculating the moorage percentage, the amount of public moorage is to be compared to the

amount of private moorage. Commercial marinas with private float home moorage are required to provide either non-private float home moorage or two (2) public use boat moorages for each private float home moorage in addition to any other required public use boat moorages. (7-1-26)

f. When private moorage is permitted, the public moorage must be of similar size and quality as private moorage, except for float home moorage as provided in Paragraph 015.03.f. (3-18-22)

g. Commercial marinas with private moorage must form a condominium association, co-op, or other entity that owns and manages the marina, littoral rights, upland property sufficient to maintain and operate a marina. This entity is responsible for obtaining and maintaining an encroachment permit under these rules and a submerged lands lease under [IDAPA 20.03.17](#). (7-1-26)

04. Covered Slip. (3-18-22)

a. Covered slips, regardless of when constructed, may not have a temporary or permanent residential area. (3-18-22)

b. Covered slips with hard roofs and up to three (3) walls may be maintained or replaced at their current size if previously permitted or constructed prior to January 1, 1975. These structures may not be expanded nor converted to boat garages. (7-1-26)

c. Covered slips may not be supported by extra piling nor constructed with hard roofs. (3-18-22)

d. Covered slips should have colors that blend with the natural surroundings and are approved by the Department. (7-1-26)

e. Covered slips must be constructed as canopies without sides unless the following standards are followed: (7-1-26)

i. At least two (2) feet of open space is left between the bottom of the cover and the dock or pier surface; and (3-18-22)

ii. Fabric for canopy and sides will transmit at least seventy-five percent (75%) of the natural light. (3-18-22)

05. Boat Garage. (3-18-22)

a. Boat garages must only be used for mooring watercraft, and may not have separate fully enclosed rooms, overhead storage, or a residential area of any kind as defined by these rules. (7-1-26)

b. Applications for permits to construct new boat garages, or to expand the height or square footage of existing boat garage are no longer accepted unless the application is to support local emergency services. (7-1-26)

c. A permit is required to replace or relocate an existing boat garage. A new boat garage may not be expanded in size or height, and must retain the original square footage and footprint. (7-1-26)

06. Breakwaters. Breakwaters will not be authorized below the low water mark without an extraordinary showing of need, provided, however that this does not apply to floating breakwaters secured by piling and used to protect private property from recurring wind, wave, or ice damage, or used to control traffic in busy areas of lakes. The breakwater must be designed to counter wave actions of known wave heights and wave lengths. (7-1-26)

07. Seawalls. Seawalls should be placed at or above the O/AHWM, if possible. Seawalls are nonnavigational and placement waterward of the O/AHWM will generally not be allowed. (7-1-26)

08. Riprap. (3-18-22)

a. Riprap used to stabilize shorelines will consist of rock or other materials that are appropriately sized to resist movement from anticipated wave heights or tractive forces of the water flow. The rock must be sound, dense, durable, and angular rock resistant to weathering and free of fines. The riprap must overlie a distinct filter layer that consists of sand, gravel, or nonwoven geotextile fabric. The riprap and filter layer must be keyed into the bed below the O/AHWM, as applicable. If the applicant wishes to install riprap with different standards, they must submit a design that is signed and stamped for construction purposes by a professional engineer registered in the state of Idaho. (7-1-26)

b. Riprap used to protect the base of a seawall or other vertical walls may not need to be keyed into the bed and may not require a filter layer, at the Department's discretion. (3-18-22)

09. Mooring Buoys. Buoys must be installed a minimum of thirty (30) feet away from littoral right lines of adjacent littoral owners. One (1) mooring buoy per littoral owner may be allowed for single-family encroachments. (7-1-26)

10. Float Homes. (3-18-22)

a. Applications for permits to construct new float homes, convert existing encroachments into float homes, or to expand the total square footage of the existing footprint, will not be accepted. (7-1-26)

b. A permit is required to relocate, rebuild, or add another story to existing float homes. Applications are subject to the following requirements: (7-1-26)

i. The applicant must provide proof of ownership or long term lease of the upland parcels adjacent to the relocation site. (7-1-26)

ii. The applicant must provide detailed, scaled drawings approved by an engineer licensed in the state of Idaho that accurately illustrate and depict all interior and exterior features, layouts, and dimensions. (7-1-26)

iii. The applicant must show that all wastes and waste water will be transported to shore disposal systems by a method approved by the Idaho Department of Environmental Quality or the appropriate local health authority. Applicant must either obtain a letter from the local sewer district stating that the district will serve the float home or demonstrate that sewage will be appropriately handled and treated. Applicant must also provide a statement from a professional plumber licensed in the state of Idaho that the plumbing was designed in accordance with [IDAPA 24.39.20](#), as incorporated by reference in Section 003 of these rules, installed properly, and has been pressure tested. (7-1-26)

11. Excavating or Dredging. (7-1-26)

a. Excavating or dredging requires an encroachment permit and are processed in accordance with Section 030 of these rules. (7-1-26)

b. Dredging to improve access to navigable waters must have a clear environmental, economic, or social benefit to the public, and must not result in any appreciable environmental degradation. Dredging will not be approved if the cumulative effects of these features would be adverse to fisheries or water quality. (7-1-26)

c. Whenever practical, dredging must benefit more than one (1) littoral owner or a commercial marina; provided, however, dredging will not be approved that will provide access for watercraft to nonlittoral owners. (7-1-26)

12. ATONs. Aids to Navigation will conform to the requirements established by the United States Aid to Navigation system. (3-18-22)

13. General Encroachment Standards. (3-18-22)

a. Square Footage. The square footage limitations in Subsections 015.01 and 015.02 include all encroachments beyond the O/AHWM including the approach, ramp, pier, dock, and all other floating or suspended

- structures that cover the lake surface, except for: (7-1-26)
- i. Boat lifts as allowed pursuant to Paragraph 015.13.b. (3-18-22)
 - ii. Jet ski ramp, port, or lift as allowed pursuant to Paragraph 015.13.b. (3-18-22)
 - iii. Slip covers. (3-18-22)
 - iv. Undecked portions of breakwaters. (3-18-22)
- b. Boat Lifts and Jet Ski Lifts.** (3-18-22)
- i. Single-family docks are allowed one (1) boat lift and two (2) jet ski lifts, or two (2) boat lifts, which are not included in calculating total square footage. Additional lifts will include fifty percent (50%) of the square footage of the largest lifts into calculating total allowable square footage as per Subsection 015.01. (7-1-26)
 - ii. Two-family docks are allowed either two (2) boat lifts and four (4) jet ski lifts, or four (4) boat lifts, which are not included in calculating total square footage. Additional lifts will include fifty percent (50%) of the square footage of the largest lifts into calculating total allowable square footage as per Subsection 015.01. (7-1-26)
 - iii. A boat lift or jet ski lift within lines drawn perpendicular from the shore to the outside dock edges will not require a separate permit if the lift is outside the ten (10) foot adjacent littoral owner setback, the lift does not extend beyond the line of navigability, and the lift does not count toward the square footage of the dock as outlined in Subparagraphs 015.13.b.i. and 015.13.b.ii. The permittee must send a revised permit drawing with the lift location as an application to the Department. If the lift meets the above conditions, the application will be approved as submitted. Future applications must include the lifts. (3-18-22)
 - iv. Community docks are allowed either one (1) boat lift or two (2) jet ski lifts per moorage. Boat lifts placed outside of a slip must be oriented with the long axis parallel to the dock. Additional lifts will require that fifty percent (50%) of their footprint be included in the allowable square footage of the dock or pier as per Subsection 015.02. (7-1-26)
- c. Angle from Shoreline.** (3-18-22)
- i. Where feasible, all docks, piers, or similar structures must protrude at right angles to the general shoreline as nearly as possible to minimize infringement on adjacent littoral rights. (7-1-26)
 - ii. Where right angles to the shoreline are not feasible, the Department will work with the applicant to design an acceptable alternative configuration and angle from shore. (7-1-26)
- d. Length of Community Docks and Commercial Navigational Encroachments.** Docks, piers, or other encroachments may extend as far as necessary to access a water depth that will afford sufficient draft for water craft within the normal accepted line of navigability. The Department may authorize a longer or shorter length if justified by specific site conditions. If a line of navigability has not been established through use, the Department may designate a line of navigability for the purpose of effective administration of these rules. (7-1-26)
- e. Presumed Adverse Effect.** It will be presumed, subject to rebuttal, that single-family and two-family navigational encroachments will have an adverse effect upon adjacent littoral rights if located closer than ten (10) feet from adjacent littoral right lines, and that commercial navigational encroachments, community docks or nonnavigational encroachments will have an adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines. Written consent of the adjacent littoral owners will automatically rebut the presumption. All boat lifts and other structures attached to the encroachments are subject to the above presumptions of adverse effects. (7-1-26)
- f. Weather Conditions.** Encroachments and their building materials must be designed and installed to withstand normally anticipated weather conditions in the area. Docks, piers, and similar structures must be adequately secured to pilings or anchors to prevent displacement due to ice, wind, and waves. Flotation devices must

be reasonably resistant to puncture and other damage. (7-1-26)

g. Markers. If the Department determines that an encroachment is not of sufficient size to be readily seen or poses a hazard to navigation, the permit will specify the use of ATONs to clearly identify the navigational hazard. (7-1-26)

h. All encroachments that connect with upland sewer or septic systems must implement the following standards: (7-1-26)

i. The holding tank with pump or grinder unit must be adequately sealed to prevent material from escaping and to prevent lake water from entering. The tank lid must have a gasket or seal, and the lid must be securely fastened at all times unless the system is being repaired or maintained. An audible overflow alarm must also be installed. (7-1-26)

ii. Grinders or solids handling pumps must be used to move sewage from the encroachment to the upland system. (7-1-26)

iii. If solids handling pumps are used, they must have a minimum two (2) inch interior diameter discharge, and the pipe to the shoreline must also have a minimum two (2) inch interior diameter. Connectors used on either end of this pipe may not significantly reduce the interior diameter. (7-1-26)

iv. The pipeline to the shoreline must be a continuous line with no mechanical connections. Check valves and manual shutoff valves must be installed at each end of the line. Butt fused High-Density Polyethylene, two hundred (200) psi black polyethylene pipe, or materials with similar properties must be used. The pipeline must contain sufficient slack to account for the maximum expected rise and fall of the water level. The pipeline must be buried in the lakebed for freeze protection where it will be exposed during periods of low water. Pipelines on the bed of the lake must be appropriately located and anchored so they will not unduly interfere with navigation or other lake related uses. (7-1-26)

v. Manifolds below the O/AHWM that collect two (2) or more sewer lines and then route the discharge to the shore through a single pipe are not allowed. All encroachments must have an individual sewer line from the encroachment to a facility on the shore. (7-1-26)

vi. All permittees will have their encroachment inspected by a professional plumber licensed in the state of Idaho. The inspection will be documented with a report prepared by the inspector. The report will document whether or not the encroachment meets the standards in Paragraph 015.13.h. of these rules, and will be provided to the Department within thirty (30) days of any modification that impacts plumbing. (7-1-26)

i. All electrical work installed on encroachments must be done in accordance with [IDAPA 24.39.10](#), as incorporated by reference in Section 003 of these rules. (7-1-26)

j. All plumbing work on encroachments must be done in accordance with [IDAPA 24.39.20](#), as incorporated by reference in Section 003 of these rules. (7-1-26)

k. All encroachments beyond the O/AHWM mark must adhere to the safety standards set forth in [IDAPA 18.08.01](#), as incorporated by reference in Section 003 of these rules. (7-1-26)

l. Overhead Clearance. (3-18-22)

i. Overhead clearance between the O/AHWM and the structure or wires must be sufficient to pass the largest vessel that may reasonably be anticipated to use the waters in the vicinity of the encroachment. The clearance must not exceed thirty (30) feet unless after public hearing, the Department determines that a higher clearance is necessary for the public's benefit. Approval of structures or wires presenting a navigational hazard may require adequate safety marking to show clearance and warn the public of the hazard, which will be specified. (7-1-26)

ii. When the permit provides for overhead clearance or safety markings under Paragraph 015.13.l., the Department will consider the applicable requirements of the United States Coast Guard, the Idaho Transportation

Department, the Idaho Public Utilities Commission and any other applicable federal, state, or local laws. (7-1-26)

m. Beaded Foam Flotation. Beaded foam flotation must be completely encased in a manner that will maintain the structural integrity of the foam. The encasement must be resistant to the entry of rodents. (3-18-22)

14. Floating Toys. (3-18-22)

a. An encroachment permit is required for floating toys when they are anchored to the lakebed with an anchor that requires equipment for removal or when located waterward of the line of navigability for more than twenty-four (24) consecutive hours. (7-1-26)

15. Marine Motor Fuel Dispensing Facilities. (7-1-26)

a. Any portion of a marine motor fuel dispensing facility located below the O/AHWM requires an encroachment permit. (7-1-26)

16. Fill Material. (7-1-26)

a. The placing of any dredged or fill material on or in the beds or waters of any navigable lake is an encroachment and requires a permit from the Department. (7-1-26)

17. Lake Specific Encroachment Permit Terms. (3-18-22)

a. The Department may use encroachment permit conditions specific to individual waterways if necessary to protect public trust resources and the permit condition is approved by the Land Board. (7-1-26)

b. Lake specific encroachment permit conditions may supplement, negate, or alter encroachment standards established in Section 015 of these rules. (3-18-22)

c. Lake specific encroachment permit conditions will be used to assist with implementing lake management plans authorized by [Title 39, Chapter 66](#), Idaho Code; [Title 39, Chapter 85](#), Idaho Code; [Title 67, Chapter 43](#), Idaho Code; and [Title 70, Chapter 2](#), Idaho Code. (7-1-26)

d. Lake specific encroachment permit terms may be read at the Idaho Department of Lands website: <https://www.idl.idaho.gov/>. (7-1-26)

016. -- 019. (RESERVED)

020. APPLICATIONS.

01. Encroachment Applications. No encroachments on, in or above the beds or waters of any navigable lake in the state of Idaho are allowed without first making application to and receiving an encroachment permit from the Department. The application must include a description of any demolition activities and the steps that will be taken to protect water quality and other public trust values. No demolition activities may proceed until the permit is issued. (7-1-26)

02. Signature Requirement. Only persons who are littoral owners or lessees of a littoral owner are eligible to apply for encroachment permits. A person who has been specifically granted littoral rights or dock rights from a littoral owner is also eligible for an encroachment permit; the grantor of these littoral rights, however, are no longer be eligible to apply for an encroachment permit. Except for waterlines or utility lines, the possession of an easement to the shoreline does not qualify a person to be eligible for an encroachment permit. (7-1-26)

03. Other Permits. A person seeking to make an encroachment must also obtain any additional approvals lawfully required by federal, local or other state agencies. (7-1-26)

04. Repairs, Reinstallation of Structures. No permit is required to clean, maintain, or repair an

existing permitted encroachment, but a permit is required to replace, enlarge, or extend an existing encroachment. Replacement of single-family and two-family docks will not require a permit if the replacement is within current standards as provided in Idaho Code § 58-1305(e). Replacing the top or decking of an encroachment is considered a repair. Replacement of wind or water damaged pilings, docks, or floats is considered a repair. Any repair or replacement that adversely affects the bed of the lake is a violation of these rules. (7-1-26)

05. Dock Reconfiguration. (3-18-22)

a. Reconfiguration or rearrangement of single-family and two-family docks will require a new application for an encroachment permit. (7-1-26)

b. Reconfiguration or rearrangement of community docks and commercial navigational encroachments may not require a new application for an encroachment permit if the changes are only internal and navigational. The Department must be consulted prior to commencement of modifications, and will consider the following to determine if a new permit is required: (7-1-26)

- i. Overall footprint does not change in dimension or orientation; (3-18-22)
- ii. No increase in the square footage, as described in the existing permit. This only applies to community docks; (7-1-26)
- iii. The entrances and exits of the encroachment do not change; (7-1-26)
- iv. The number of slips does not change. (7-1-26)

06. Dredging. A permit is required before dredging or redredging a channel or basin unless dredging is specifically authorized by an existing permit. (7-1-26)

07. Forms, Filing. Applications must be filed on forms provided by the Department together with filing fees and costs of publication when required by these rules. Costs incurred to prepare the application, including all necessary maps and drawings, must be paid by the applicant. (7-1-26)

a. Plans must include detailed information to demonstrate compliance with the applicable standards of these rules, and the following information at a scale sufficient to show the information requested: (7-1-26)

- i. Lakebed profile in relationship to the proposed encroachment. The lakebed profile must clearly depict the O/AHWM, the line of navigability, and the low water mark. (7-1-26)
- ii. Copy of most recent survey or county plat showing the full extent of the applicant's upland parcel and the adjacent upland parcels. (7-1-26)
- iii. Proof of current ownership or control of upland property or littoral rights. (7-1-26)
- iv. Scaled maps accurately depicting the location of all encroachments and their dimensions. (7-1-26)
- v. Scaled air photos or maps accurately depicting the lengths of adjacent docks as an indication of the line of navigability, distances to adjacent encroachments, distance to littoral lines, and the location and orientation of the proposed encroachment in the lake. (7-1-26)
- vi. Total square footage of proposed docks and other structures, excluding pilings, that cover the lake surface. (3-18-22)
- vii. Names and current mailing addresses of adjacent littoral landowners. (3-18-22)
- viii. Plans submitted for enclosed encroachments must accurately depict all interior and exterior features. Public, commercial, and residential encroachments may require engineered plans approved by a professional engineer licensed in the state of Idaho. (7-1-26)

b. Applications must be submitted or approved by the littoral owner or, if the encroachment will lie over or upon private lands between the OHWM and the AHWM, the application must be submitted or approved by the owner of those lands. When the littoral owner is not the applicant, the application must bear the owner's signature as approving the encroachment prior to filing. (7-1-26)

c. If more than one (1) littoral owner exists, the application must bear the signature of all littoral owners, or the signature of an authorized officer of an entity or a designated homeowner's or property management association. (7-1-26)

d. Applications for noncommercial ATONs, wildlife habitat, and recreational uses by members of the public must be filed by any municipality, county, state, or federal agency, or other entity empowered to make those improvements. Application fees are not required for these encroachments. (7-1-26)

e. The following applications must be accompanied by the respective nonrefundable filing fees together with a deposit toward the cost of newspaper publication, which will be determined by the Department at the time of filing: (7-1-26)

i. Nonnavigational encroachments require a fee of one thousand dollars (\$1,000); except that nonnavigational encroachments for bank stabilization and erosion control require a fee of five hundred fifty dollars (\$550). (3-18-22)

ii. Commercial navigational encroachments require a fee of two thousand dollars (\$2,000). If the costs of processing an application exceed this amount, then the applicant may be charged additional costs as allowed by Idaho Code [58-1307](#); (7-1-26)

iii. Community navigational encroachments require a fee of two thousand dollars (\$2,000); and (3-18-22)

iv. Navigational encroachments extending beyond the line of navigability require a fee of one thousand dollars (\$1,000). (3-18-22)

f. Applicants must pay any balance due before written approval will be issued. The Department will refund any publication costs if the notice is not published. (7-1-26)

g. Application for a single-family or two-family dock not extending beyond the line of navigability or a nonnavigational encroachment for a buried or submerged water line serving four or less households must be accompanied by a nonrefundable fee of four hundred twenty-five dollars (\$425). (7-1-26)

h. No publication cost is required for applications for noncommercial navigational encroachments not extending beyond the line of navigability or for application for installation of buried or submerged water lines and utility lines. (7-1-26)

i. Applications and plans must be stamped with the date received by the Department. (7-1-26)

j. Applications that are incomplete, not in the proper form, not containing the required signature(s), or not accompanied by filing fees and costs of publication will not be accepted for filing. The Department will send the applicant a written notice of incompleteness with a listing of the application's deficiencies. The applicant will be given thirty (30) days from receipt of the notice of incompleteness to resubmit the required information. The deadline may be extended with written consent of the Department. If the given deadline is not met, the Department will notify the applicant that the application has been denied due to lack of sufficient information. The applicant may reapply at a later date, but will be required to pay another filing fee and publication fee, if applicable. (7-1-26)

021. -- 024. (RESERVED)

025. PROCESSING OF APPLICATIONS FOR SINGLE-FAMILY AND TWO-FAMILY NAVIGATIONAL ENCROACHMENTS.

01. Single-Family and Two-Family Navigational Encroachments. Applications for single-family and two-family navigational encroachments not extending beyond the line of navigability will be processed with a minimum of procedural requirements and will not be denied except in the most unusual of circumstances. (7-1-26)

02. Notification of Adjacent Littoral Owners. The Department will provide a copy of the application to the littoral owners adjacent to the applicant's property. If the applicant owns one (1) or more adjacent lots, the Department will notify the owner of the next adjacent lot. If the proposed encroachment may infringe upon the littoral rights of an adjacent owner, the Department will provide notice of the application by certified mail, return receipt requested; otherwise, the notice will be sent by regular mail. Notification will be mailed to the adjacent littoral owners' usual place of address, which, if not known, will be the address shown on the records of the county treasurer or assessor. The applicant may submit the adjacent littoral owners' signatures, consenting to the proposed encroachment, in lieu of the Department's notification. (7-1-26)

03. Written Objections. (3-18-22)

a. If an adjacent littoral owner files written objections to the application with the Department within ten (10) days from the date of service or receipt of notice of application, the Department will schedule a hearing. In computing the time to object, the day of service or receipt of notice of the application will not be counted. Objections must be received by the Department within the ten (10) day period. If the last day of the period is Saturday, Sunday or a legal holiday, the time within which to object will run until the end of the first business day thereafter. (7-1-26)

b. The applicant and any objectors may agree to changes in the proposed encroachment that result in the objections being withdrawn. Department employees may facilitate this agreement. Participation by Department personnel in this informal mediation will not constitute a conflict of interest for participation in the hearing process. A withdrawal of objections must be in writing, completed prior to a scheduled hearing, and contain: (7-1-26)

- i.** Signatures of the applicant and the objecting party; (3-18-22)
- ii.** A description of the changes or clarifications to the permit that are acceptable to the applicant, the objecting party, and the Department. (7-1-26)

04. Unusual Circumstances. Even though no objection is filed by an adjacent littoral owner to a noncommercial navigational encroachment, the Director may require a hearing because of the existence of unusual circumstances. (7-1-26)

05. Hearings. Hearings set by the Director following an objection or the Director's own determination will be held within sixty (60) days from the date the application is accepted. At the hearing, the Department the applicant and any adjacent littoral owner filing timely objections may appear personally or through an authorized representative and present evidence. The Director will designate a hearing officer who will act as a fact finder and not a party. Provided, however, that the parties may agree to informal disposition of an application by stipulation, agreed settlement, consent order, or other informal means. (7-1-26)

06. Decision Following a Hearing. The Director will, within forty-five (45) days after close of the hearing provided for in Subsections 025.03 or 025.04 render a final decision to the parties appearing before him. (7-1-26)

07. Disposition Without Hearing. If a hearing is not held under Subsection 025.03 or Subsection 025.04, then the Department will act upon a complete application as expeditiously as possible but no later than sixty (60) days from acceptance of the application. Failure to act within this sixty (60) day timeframe will constitute approval of the application. Applications determined to be incomplete under Subsection 020.07 are not subject to the sixty (60) day timeframe until the information requested by the Department and required by the rules has been submitted. (7-1-26)

08. Judicial Review. Any applicant aggrieved by the Director's final order, or an aggrieved party appearing at a hearing, may have a right to have the proceedings and final order reviewed by the district court in the county where the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final order. An objector will be required to deposit an appeal bond with the court, in an amount to be determined by

the court but not less than five hundred dollars (\$500) insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the Director. The applicant need post no bond with the court to prosecute an appeal. (7-1-26)

026. -- 029. (RESERVED)

030. PROCESSING OF APPLICATIONS FOR ALL OTHER TYPES OF ENCROACHMENTS.

01. Nonnavigational, Community, and Commercial Navigational Encroachments. Within ten (10) days of receiving a complete application for a nonnavigational encroachment, a community dock, a commercial navigational encroachment, or a navigational encroachment extending beyond the line of navigability, the Department will publish a notice of application once a week for two (2) consecutive weeks in a newspaper of general circulation in the county in which the encroachment is proposed. If, however, the Director orders a public hearing on the application within the time for publication of the above notice, the Department will dispense with publication of the notice of the application and proceed instead to publish a notice of the public hearing as provided in Subsection 030.05. Applications for installation of buried or submerged water lines and utility lines are exempt from the newspaper publication process. (7-1-26)

02. Encroachments Not in Aid of Navigation. Encroachments not in aid of navigation will normally not be approved by the Department except in cases involving major environmental, economic, or social benefits that exceed the detrimental effects of the proposed encroachment to public trust values and adjacent real property, if any. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is no other feasible alternative with less impact on public trust values. (7-1-26)

03. Notifications. The Department may provide copies of the application and plans to federal, state and local agencies and to adjacent littoral owners, requesting comment on the likely effect of the proposed encroachment upon adjacent littoral property and public trust values such as navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality, etc. (7-1-26)

04. Written Comments or Objections. Within thirty (30) days of the first date of publication, an agency, adjacent littoral owner, or any resident of the state of Idaho may do one (1) of the following: (7-1-26)

a. Notify the Department of their opinions and recommendation, if any, for alternate plans they believe will be economically feasible and will accomplish the purpose of the proposed encroachment without unreasonably adversely affecting adjacent littoral property or public trust values; or (3-18-22)

b. File with the Department written objections to the proposed encroachment and request a public hearing on the application. Any person or agency requesting a public hearing on the application must deposit and pay to the Department an amount sufficient to cover the cost of publishing notice of hearing provided in Subsection 030.05. (7-1-26)

05. Public Hearing. The Department will publish notice of the time and place of public hearing on the application once a week for two (2) consecutive weeks in a newspaper in the county in which the encroachment is proposed. The public hearing will be held within ninety (90) days from the date the application is accepted for filing. (7-1-26)

06. Hearing Participants. Any person may appear at the public hearing and present oral testimony. Persons may also submit written comments to the Department. (7-1-26)

07. Decision After Hearing. The Director will render a final decision and order within thirty (30) days after close of the public hearing. A copy of the final order will be mailed to the applicant and to each person or agency appearing at the hearing and giving oral or written testimony. (7-1-26)

08. Decision Where No Hearing. (3-18-22)

a. If no objection to the proposed encroachment is filed with the Department and no public hearing is requested or ordered the Department will issue a final decision and order based upon its investigation and

consideration the economics of the navigational necessity, justification or benefit, public or private, of the proposed encroachment as well as its detrimental effects, if any, upon adjacent real property and public trust values such as navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality, etc. (7-1-26)

b. The applicant, if dissatisfied with the Director's decision, has twenty (20) days from the date of the Director's decision to request reconsideration thereof. If reconsideration is granted, the Director will set a time and place for a reconsideration hearing, not to exceed thirty (30) days from receipt of the request, at which time and place the applicant may appear in person or through an authorized representative and present briefing and oral argument. Upon conclusion of reconsideration, the Director will, by personal service or by registered or certified mail, notify the applicant of the final decision. (7-1-26)

09. Judicial Review. Any applicant or party aggrieved by the Director's final order, has the right to judicial review of the final order by the district court in the county in which the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final order. The applicant need post no bond with the court to prosecute an appeal. Any other aggrieved party is required to deposit an appeal bond with the court, in an amount to be determined by the court but not less than five hundred dollars (\$500), insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the Director. (7-1-26)

10. Factors in Decision. In recognition of continuing private property ownership of lands lying between the OHWM and the AHW, if present, the Department will consider unreasonable adverse effect upon adjacent property and undue interference with navigation the most important factors to be considered in granting or denying an application for either a nonnavigational encroachment or a commercial navigational encroachment not extending below the OHWM. If no objections have been filed to the application and no public hearing has been requested or ordered by the Director, or, if upon reconsideration of a decision disallowing a permit, or following a public hearing, the Department determines that the benefits, whether public or private, to be derived from allowing the encroachment exceed its detrimental effects, the permit will be granted. (7-1-26)

031. -- 034. (RESERVED)

035. TEMPORARY PERMITS.

01. Applicability. Temporary permits may be issued for construction, demolition, temporary activities related to permitted encroachments, or other activities approved by the Department. (7-1-26)

02. Permit Term. Temporary permits are generally issued for less than one (1) year, but longer terms may be approved by the Department and permits may be extended with Department approval. (7-1-26)

03. Bonding. The Department may require bonding for temporary permits. (7-1-26)

04. Fee. The Board sets fees for temporary permits, but the fees will not be greater than the amounts listed for the respective permit types in Subsection 020.07. Fee information is available at www.idl.idaho.gov. (7-1-26)

05. Processing. Temporary permits may be advertised if the Department deems it appropriate, with the applicant paying the advertising fee as per Subsection 020.07. (7-1-26)

036. -- 054. (RESERVED)

055. LEASES AND EASEMENTS.

01. Lease or Easement. As a condition of the encroachment permit, the Department may require a submerged land lease or easement for use of any part of the state-owned bed of the lake where required in accordance with [IDAPA 20.03.17](#), or [IDAPA 20.03.09](#). Construction of an encroachment authorized by permit before obtaining the required lease or easement constitutes a trespass. This rule is intended to grant the state recompense for the use of the state-owned bed of a navigable lake where reasonable and it is not intended that the Department withhold or refuse to grant a lease or easement if in all other respects the proposed encroachment would be permitted. (7-1-26)

02. Seawalls, Breakwaters, Fill. Seawalls, breakwaters, and fill on or over state-owned beds, designed primarily to create additional land surface, will only be authorized by an encroachment permit and submerged land lease or easement, upon approval by the Department. (7-1-26)

056. -- 059. (RESERVED)

060. INSTALLATION.

01. Installation Only After Permit Issued. Installation or construction of an encroachment may commence only when the permit is issued, when the Department notifies the applicant in writing that installation may commence, or when the Department has failed to act in accordance with Subsection 025.07. (7-1-26)

02. Removal of Construction Waste. (3-18-22)

a. Pilings, anchors, old docks, and other structures or waste at the site of the installation or reinstallation and not used as a part of the encroachment must be removed from the water and lakebed at the time of the installation or reinstallation to a point above the O/AHWM. (7-1-26)

b. Demolition of encroachments will be done in a manner that does not unnecessarily damage the lakebed or shoreline. Demolition work must comply with water quality standards administered by the Department of Environmental Quality. (7-1-26)

03. Compliance with Permit. All work must be done in accordance with these rules, and the application submitted, and is subject to any condition specified in the permit. (7-1-26)

04. Sunset Clause. All activities authorized within the scope of the encroachment permit must be completed within three (3) years of issuance date. If the activities are not completed within three (3) years, the permit will automatically expire unless it was previously revoked or extended by the Department. The Department may issue a permit with an initial sunset clause that exceeds three (3) years if the need is demonstrated by the applicant. (7-1-26)

061. -- 064. (RESERVED)

065. ASSIGNMENTS.

01. Encroachment Permit Assignment. Encroachment permits may be assigned only if the permitted encroachments conform with the approved permits. An assignment is not valid until it is approved by the Department. (7-1-26)

02. Assignment Application. The assignor and assignee must complete a Department assignment form and submit along with the three hundred dollars (\$300) assignment fee to the Department. (7-1-26)

03. Assignment With New Permit. Encroachments not in compliance with the approved permit may be assigned only if: (3-18-22)

a. An application for a new permit to correct the noncompliance is submitted at the same time. (3-18-22)

b. The assignee submits written consent to bring the encroachment into compliance. (7-1-26)

066. -- 069. (RESERVED)

070. MISCELLANEOUS.

01. Water Resources Permit. A permit to alter a navigable stream issued by the Department of Water Resources pursuant to [Title 42, Chapter 38](#), Idaho Code, may, in appropriate circumstances, contain language stating

the approval of the Department of Lands to occupy the state-owned bed of the navigable stream. (3-18-22)

02. Dredge and Placer Mining. Department authorization is required for dredge and placer mining in the lands, lakes and rivers within the state, whether or not the state owns the beds, pursuant to [Title 47, Chapter 13](#), Idaho Code. (3-18-22)

03. Mineral Leases. Littoral rights do not include any right to remove bed materials from state-owned lakebeds. Applications to lease minerals, oil, gas and hydrocarbons, and geothermal resources within the state-owned beds of navigable lakes will be processed by the Department pursuant to Title 47, [Chapters 7, 8 and 16](#), Idaho Code, and rules promulgated thereunder. (3-18-22)

04. Other Laws and Rules. The permittee must follow all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources. (7-1-26)

071. -- 079. (RESERVED)

080. VIOLATIONS - PENALTIES.

01. Cease and Desist Order. Ongoing construction of an unauthorized encroachment or an unauthorized modification of a permitted encroachment is considered a violation of these rules. The Department will serve the landowner, contractor, or permittee a cease and desist order that contains a short and plain statement describing the violation, the pertinent legal authority, and how the violation may be rectified. This order will be served by personal service or certified mail. The cease and desist order will require the permittee to maintain the status quo pending formal proceedings by the Department to rectify the violation. (7-1-26)

02. Notice of Noncompliance/Proposed Permit Revocation. When the Department determines that these rules have been violated, a cause exists for revocation of a lake encroachment permit, or both of these have occurred, it will provide the permittee or offending person with a notice of noncompliance/proposed permit revocation that consists of a short and plain statement of the violation including any pertinent legal authority. This notice also informs the permittee or offending person of what steps are needed to either bring the encroachment into compliance, if possible. (7-1-26)

03. Noncompliance Resolution. The Department will attempt to resolve all noncompliance issues through conference with the permittee or other involved party. Any period set by the parties for correction of a violation is binding. If the Department is unsuccessful in resolving the violations, then the Department may pursue other remedies under Section 080 of these rules. (3-18-22)

04. Violations. The following acts or omissions subject a person to a civil penalty as allowed by [Title 58, Chapter 13, Section 58-1308](#), Idaho Code: (3-18-22)

a. A violation of [Title 58, Chapter 13](#), Idaho Code, or of the rules and general orders adopted and applicable to navigable lakes; (7-1-26)

b. A violation of any special order of the Director applicable to a navigable lake; or (3-18-22)

c. Refusal to cease and desist from any violation after having received a written cease and desist order from the Department by personal service or certified mail, within the time provided in the notice, or within thirty (30) days of service of the notice if no time is provided. (7-1-26)

d. Willfully and knowingly falsifying any records, plans, information, or other data provided to the Department. (7-1-26)

e. Violating the terms of an encroachment permit. (3-18-22)

05. Injunctions, Damages. The Board expressly reserves the right, through the Director, to seek injunctive relief under [Title 58, Chapter 13, Section 58-1308](#), Idaho Code and mitigation of damages under Title 58, Chapter 13, [Section 58-1309](#), Idaho Code, in addition to the civil penalties provided for in Subsection 080.04 of these

rules.

(3-18-22)

06. Mitigation, Restoration. The Board expressly reserves the right, through the Director, to require mitigation and restoration of damages under Title 58, Chapter 13, [Section 58-1309](#), Idaho Code, in addition to the civil penalties and injunctive relief provided for in Subsections 080.04 and 080.05 of these rules. The Department may consult with other agencies to determine the appropriate type and amount of mitigation and restoration. (7-1-26)

07. Revocation of Lake Encroachment Permits.

(3-18-22)

a. The Department may institute an administrative action to revoke a lake encroachment permit for violation of the conditions of a permit, or for any other reason authorized by law. These proceedings will be conducted as contested case hearings subject to [Title 67, Chapter 52](#), Idaho Code. (7-1-26)

b. A hearing officer appointed to conduct the revocation hearing prepares recommended findings of fact and conclusions of law and sends them to the Director for final adoption or rejection. (7-1-26)

c. An aggrieved party who appeared and testified at a hearing has the right to have the proceedings and final decision of the Director reviewed by the district court of the county in which the violation or revocation occurred by filing a notice of appeal within twenty-eight (28) days from the date of the final decision. (3-18-22)

081. -- 999. (RESERVED)