

Dear Senators BURTENSHAW, Adams, Semmelroth, and  
Representatives MENDIVE, Shepherd, Burns:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Idaho Department of Lands:

IDAPA 20.05.01 - Rules Pertaining to the Recreational Use of Endowment Land (New Chapter) -  
Proposed Rule (Docket No. 20-0501-2301).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 11/17/2023. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/15/2023.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the  
memorandum attached below.



**Terri Kondeff**  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Resources & Conservation Committee  
**FROM:** Deputy Division Manager - Katharine Gerrity  
**DATE:** October 31, 2023  
**SUBJECT:** Idaho Department of Lands

IDAPA 20.05.01 - Rules Pertaining to the Recreational Use of Endowment Land (New Chapter) - Proposed Rule (Docket No. 20-0501-2301)

#### Summary and Stated Reasons for the Rule

The Idaho Department of Lands submits notice of proposed rule at IDAPA 20.05.01 - Rules Pertaining to the Recreational Use of Endowment Land. According to the department, the purpose of the rulemaking is to address distinct problems at specific locations on state endowment trust lands. The department notes that the purpose of endowment lands is to generate revenue for endowment beneficiaries. The department states that recreational use of those lands is a secondary privilege allowed only if it does not cause damage or disturb the revenue-generating potential of the land. The department adds that the rulemaking implements SB 1049 passed during the 2023 legislative session to deter destructive behaviors on endowment land. The law provides for the issuance of warnings/citations for minor offenses. The rulemaking allows for that action. This is a new chapter.

#### Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted and there is no fiscal impact to the general fund.

#### Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 58-104 and 58-156, Idaho Code.

cc: Idaho Department of Lands  
Anna Maria Mancini

#### \*\*\* 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.

Paul Headlee, Deputy Director    Matt Drake, Manager    Keith Bybee, Manager    April Renfro, Manager    Norma Clark, Manager  
Legislative Services Office    Research & Legislation    Budget & Policy Analysis    Legislative Audits    Information Technology

Statehouse, P.O. Box 83720  
Boise, Idaho 83720-0054

Tel: 208-334-2475  
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## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.05.01 – RULES PERTAINING TO THE RECREATIONAL USE OF ENDOWMENT LAND

DOCKET NO. 20-0501-2301 (NEW CHAPTER)

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 58-156 and 58-104(6), Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

<b>Wednesday, October 11, 2023 2:00 p.m. (MT)</b>
<i>In-person participation is available at:</i> <b>Idaho Department of Lands Boise Staff Office Garnet Conference Room 300 N 6th St., Suite 103 Boise, Idaho 83702</b>
<i>Join on your computer, mobile app, or room device via Zoom at:</i> <a href="https://idl.zoom.us/j/88116158144?from=addon">https://idl.zoom.us/j/88116158144?from=addon</a>
<i>To attend by telephone call:</i> <b>+1 (253)-215-8782 Meeting ID: 881 1615 8144</b>

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

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rulemaking is to address distinct problems at specific locations on state endowment trust lands. Endowment lands are different than other types of publicly managed land. Idaho's 2.5 million acres of endowment lands are meant to generate revenue through timber, grazing, and other management activities. This revenue helps fund the endowment beneficiaries, primarily K-12 education, and reduces taxes on hard-working Idahoans. Recreational use of endowment land is a secondary privilege allowed only if it does not cause damage or disturb the revenue-generating potential of the land. Unfortunately, damage to endowment land happens all too frequently.

Idaho's increasing population has resulted in more people recreating and compounding damage to endowment land. Destructive behaviors on endowment land reduce the revenue-generating potential of the land and are costly to mitigate.

This rulemaking implements Senate Bill 1049, passed during the 2023 legislative session to help deter destructive behaviors on endowment land. The new law, Section 58-156, Idaho Code, provides an alternative to heavy handed misdemeanor or felony criminal trespass changes for those who damage endowment land. Instead, it allows POST certified Idaho law enforcement to issue warnings/citations for minor offenses. Under the new law, rulemaking is required before a warning ticket or infraction citation may be written.

The proposed rule creates a targeted approach to curb damage to endowment land. The proposed rule addresses extended camping in one location, trail misuse, blocking access points, dumping, and damaging signs. It requires proper use of roads and trails on endowment land; campfires to be contained within a ring; and adherence to Stage 1 and Stage 2 fire restrictions as listed in the Idaho Fire Restrictions Plan. By regulating recreational use of endowment land, the proposed rule will help deter destructive behavior and preserve the lands' revenue-generating potential for the beneficiaries so endowment land can remain open to the public.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 7, 2023, Idaho Administrative Bulletin, [Vol. 23-6, pages 58-59](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Todd Wernex at (208) 334-0282 or [twernex@idl.idaho.gov](mailto:twernex@idl.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 25, 2023.

DATED this 29th day of August, 2023.

Todd Wernex, Recreation Program Manager  
Idaho Department of Lands  
300 N. 6th Street, Suite 103  
P.O. Box 83720 Boise, Idaho 83720-0050  
Phone: (208) 334-0282 Fax: (208) 334-3698  
[rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0501-2301**  
**(New Chapter)**

**20.05.01 – RULES PERTAINING TO THE RECREATIONAL USE OF ENDOWMENT LAND**

**000. LEGAL AUTHORITY.**  
Sections 58-104(6), 58-105, and 58-156, Idaho Code. ( )

**001. SCOPE.**  
These rules govern the closure, restriction, regulation, or prohibition of certain regulated recreational uses on Idaho endowment lands, that are subject to a warning ticket, citation, or misdemeanor pursuant to Idaho Code Section 58-156. Nothing in these rules precludes enforcement under any other applicable state statutes, including enforcement under Sections 18-7031, 18-3906, 18-7012, 18-7001, 18-7008, and 31-4410, Idaho Code. Uses of endowment land authorized by lease or permit are not regulated under this rule. ( )

**002. – 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Camping.** To use a location as a temporary or with the intent to use as a permanent place of dwelling, lodging or living accommodation. Indicators of camping may include, but are not limited to, storing personal belongings, using tents or other temporary structures for storing personal belongings or for sleeping, carrying on cooking activities, laying out bedding or making any fire. ( )

**02. Creation of a Trail or Road.** Modifying the natural condition of the landscape by manipulating rocks, vegetation, soils or other materials to purposely create a travel way. ( )

**03. Department.** The Idaho Department of Lands. ( )

**04. Endowment Lands.** Lands held in trust by the State of Idaho and managed for the benefit of specific endowment beneficiaries. ( )

**011. – 019. (RESERVED)**

**020. REGULATED USES OF ENDOWMENT LAND.**

**01. Camping.** Permanent camping is prohibited. Temporary camping on endowment land is allowed, provided: ( )

**a.** Camping in one location is limited to a total of fourteen (14) days within a period of twenty-eight (28) consecutive days. Continued camping on endowment lands beyond fourteen (14) days is allowed if the camp, all camping equipment, and all personal belongings are moved outside of a five (5) mile radius of the prior site, and if the campers otherwise comply with the requirements of Subsection 20.01. ( )

**b.** Campers must not leave any personal property unattended for more than forty-eight (48) hours; ( )

**c.** The location is not posted as “closed to camping”; and ( )

**d.** Campfires are contained within a ring no wider than three (3) feet in diameter. ( )

**02. Roads and Trails.** Using roads and trails on endowment land is allowed, provided users: ( )

**a.** May not create any roads or trails. ( )

**b.** Follow vehicle width, weight, length, and type limitations. ( )

**c.** Comply with any posted road or trail closures. ( )

**d.** Follow road and trail limitations and closures posted at trailheads, gates, and local Department offices, as shown on maps and the Department website ([www.idl.idaho.gov](http://www.idl.idaho.gov)). ( )

**e.** May not block, obstruct, or interfere with vehicular or pedestrian traffic, with vehicles or by any other means. ( )

**03. Motorized and Mechanized Use.** Motorized and mechanized travel is permitted on department designated roads, trails, and cross-country travel areas. ( )

**04. Gates and Fences.** Blocking gates, fence access points, or livestock handling equipment is prohibited. ( )

**05. Litter.** Depositing any debris, paper, litter, glass bottles, glass, nails, tacks, hooks, hoops, cans, barbed wire, boards, trash, garbage, or other waste substances on endowment land is prohibited. ( )

**a.** When toilet facilities are unavailable, solid human waste must be disposed of at least two hundred (200) feet from water sources, trails, parking areas and campsites. Waste can either be bagged and carried out or buried in a hole at least six (6) inches deep. ( )

**b.** Any construction or placement of restroom facilities must be temporary in nature. All concentrations of solid human waste must be packed out. ( )

**06.** Signs. Interfering with or damaging signs is prohibited. ( )

**07.** Fire Restrictions. Prohibited acts enumerated in the annual Idaho Fire Restrictions Plan for Stage 1 and Stage 2 fire restrictions apply to endowment land. ( )

**021. – 999.** (RESERVED)