

From: gmr@yaho.com
To: [Kourtney Romine](#)
Cc: [Rule Making](#)
Subject: Re: IDL Negotiated Rulemaking - IDAPA 20.03.02, Rules Governing Mined Land Reclamation
Date: Friday, July 10, 2020 04:30:26 PM
Attachments: [IDL Draft Mining Rule - 072020b.pdf](#)

Hello Kourtney,

I think I found the right email address. If not, please forward. Attached are my comments to IDL's draft rules #7 submitted on behalf of myself and other Idaho Bucket Miners and small/micro operators.

Thank you,

Ag @ 03:30PM

*Alan Gilda, Mine Exploration Services
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Mullan, Idaho*

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On Wednesday, July 8, 2020, 07:56:44 AM PDT, Kourtney Romine <kromine@idl.idaho.gov> wrote:

Hello,

The Idaho Department of Lands has scheduled the next negotiated rulemaking meeting for IDAPA 20.03.02, Rules Governing Mined Land Reclamation to be held via teleconference and web conference.

Friday July 17, 2020 @ 9:00 a.m. (MT)

- To participate via audio: Toll Free 1-877-820-7831; Participant Code 146275
- To participate via web conference: Please email rulemaking@idl.idaho.gov to request the Zoom link.

The Agenda and Draft Rule Text #8 for the July 17th meeting will be available next week.

Reminder: Comments on [Draft Rule Text #7](#) are due by July 10, 2020.

For more information about this rulemaking, please visit our website at <https://www.idl.idaho.gov/news/rulemaking/minerals-rulemaking-for-idapa-20-03-02/>

If you would like to be removed from this distribution list, please respond and let me know.

Sincerely,

Kourtney Romine

kromine@idl.idaho.gov

Idaho Department of Lands

300 N. 6th Street, Suite 103

P.O. Box 83720

Boise, ID 83720-0050

Website: <https://ogcc.idaho.gov/>

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

July 10, 2020

Idaho Department of Lands
Attn: Amy Johnson - Rulemaking
300 N. 6th St., Suite 103
Boise, ID 83702

Re: Rulemaking for IDAPA 20.03.02
Docket No. 20-0302-1901
Draft Rule No. 7

Dear MS Johnson,

I recently found out about your rule making process and then everything was disrupted by covid. I looked through your latest draft #7 and see while comments submitted by the EPA were mostly fully embraced, my discussion with staff have not been considered. So, I will submit them in this format this time for the record.

I would have not been interest in this process except the author(s) of the draft rules seem intent to rid Idaho of individuals and small operators. I am a weekend "Bucket Miner" and as I expressed concern with IDL Staff a while back, these draft rules, as written, will immediately prohibit me from ever affording to do anything in Idaho again. Unfortunately, it seems some in State gov't would be excited to get rid of one more of them small operators!!!!

I am writing from the reality of an individual and small operator, not a mega-operator. I mostly use hand tools (pick, shovel, and 5-gal buckets) to do my weekend mining and prospecting. Some call it hobby mining and they are probably right because I don't usually make enough a year to cover gas, but I continue to do it anyways for the exercise. Once in a while I will use a mini-ex (when I can save up enough \$) to reclaim my site instead of weeks or months later by the hand method.

Also, most my work is on private and federal lands. So IDL's attempt to force me to go through the permitting process **twice**, and charge me a humongous application "bribe-fee" and reclamation bond for which most of my disturbances are 1-200 sq-feet before being reclaimed, is totally discriminating and can viewed as nothing other than an open, outright attempt to get rid of me and others like me through rules and regulations which we have little to no say in. I am sorry that is IDL, the Land Board, the Governor, and the State's view towards individuals and small operators in Idaho like myself. In the past, Idaho use to recognize and appreciate the individuals and small operators involved in the mining industry...but apparently that was the last millennium, as the draft rules demonstrate.

There are three major issues that need resolved for the small operator to survive:

1. The Draft rules seem to intentionally discriminate against and discourage individuals and small operators in Idaho. Hopefully, this is just a simple oversight by IDL from mainly dealing with only larger corporations and not the average person and so it can easily be corrected.

2. The rules impose unnecessary burden by mandating redundant permitting expenses and time on the individual. Any project located on Federal lands has to not only be submitted and approved by the managing Federal Agency, but IDL's draft rules mandate the applicant prepare and submit a second application for further redundant review and approval by IDL, along with their exorbitant application fee and posting an additional reclamation bond. Further discouraging and discriminating against the individual and small operator with additional time and costs.

3. The draft rules place all the burden on the applicant while giving IDL a blank check to do as they please with no accountability or responsibility to the applicant and State taxpayers.

It seems obvious most of the solutions are simple and were probably just overlooked by IDL and the larger contributors. The following are recommended solutions -

1. I've seen in previous video recordings IDL saying they want to encourage mining and exploration in the State and their intent and the Legislative intent is not to discourage such activities. Yet as an individual and weekend bucket miner, these draft rules directly discourage and discriminate against me and other small operators who want to try to mine or explore in Idaho.

IDL staff tried to tell me they will not affect what I do, but what is written in Draft 7 is written and will directly adversely affect me. IDL can fix this issue by simply adding the following (not just verbally telling it does not apply to or affect me) -

001 05 (b) These rules do not apply to:

(v) operations (or individuals) that do not disturb more than 1 acre unreclaimed with motorized earth-moving equipment.

-or-

(v) any unreclaimed disturbance of 1 acre or less conducted in compliance with 060.06 a-c.

2. Mining and exploration operations on Federal land should only be managed by one Agency: either the Feds or the State, NOT both.

It is a great way to discriminate and discourage an individual or small operator by mandating they have to double permit their operation on Federal land. I am sure part of IDL reasoning for inserting itself into Federal matters is for the money from their application fees, but I was under the impression these rules were about mining operations, not stuffing IDL's coffers full.

One way to correct this oversight and error is to modify the following -

"0.70 01. Reclamation Plan Approval Required.

Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency. No operator shall conduct mining operations on any **other** lands in the state until ~~the~~ a reclamation plan has been **reviewed and** approved by the director, and the operator has filed the required financial assurance.

(a) Only Plan of Operations and Mining Plans on Federal lands shall be submitted to IDL at no charge 15 days prior to commencing work, along with the Agency's approval letter."

Or, another way to correct this oversight is to refocus IDL back to only reviewing and approving applications on non-Federal lands, unless otherwise requested by a Federal Agency.

"Approval of a reclamation plan by the Department is required for operations on all **non-federal** lands. No operator shall conduct mining operations on any **non-federal** lands in the state until ~~the~~ a reclamation plan has been **reviewed and** approved by the director, and the operator has filed the required financial assurance. **For operations on federal lands, the operator shall submit a copy of the application, proof of required financial assurance, and the approval letter from the Federal Agency prior to commencing work at no charge."**

If the above suggestions are implemented, the following is no longer a major issue for most individuals and small operators.

3. The application fees and reclamation bond amounts are totally discriminating against an individual and small operator.

The base application fee of \$500 for 0 to 5 acres quarry and \$1,000 for 0 to 100 acres for any other mining operation is totally and intentionally discriminative against individual and small operators. It is discriminatory because an individual with only 1/10 of an acre operation has to pay the same amount someone with a 5 acre or 100 acre operation does. It may only take 15 minutes to review a 1/10 acre site while it may take 15 hrs to review a 5 acre site, yet they want to charge the same. That is totally wrong.

Solution:

Just reword the boxes to: **\$100/acre** for both the quarry (up to 5 ac) and the other mining operations (up to 100 ac). Done!

Also there is no accountability or incentive for IDL to be efficient at reviewing applications. In fact as currently written, it totally encouraged IDL to be as inefficient as possible because the draft rules rewards inefficiencies with higher applications fees and discourages efficiencies because they will not make as much money from the operator if they are too efficient.

Solution to this is more challenging because of human nature. But if IDL has a standard application form for an operator to complete, both parties then would have a better idea how much actual time it will take to complete as well as review instead of it just being open ended.

In closing, these draft rules seem to be intentionally written to discriminate against and discourage individuals and small operators from operating in the State of Idaho, but they can be corrected.

- IDL could provide a realistic/affordable category or option for an individual or small business that wants to hobby mine or small-scale quarry without being guaranteed of going bankrupt by all the unnecessary financial burdens placed on them from the start.

- Create a small miner or bucket miner and small-scale rock quarry category around 2 acres or less with a fair application fee of around \$50 to \$100/ac.

- Base reclamation bond on actual estimated cost to reclaim the site, not a minimum of \$15,000 for 1 sq-ft and up.

- if the small operation is on federal lands, just submit the fed application and fed approval letter to IDL for FYI / their records, End of story! And end of unnecessary and redundant expenses because most people don't like paying for the same thing twice. That will give the State more time and resources to spend on the big local and multi-national companies and their humongous disturbances instead of spending all their resources and efforts on some little guy who's lifetime work won't even amount to one hour of disturbances at any of the big mine's operations....

Thank you for your time and consideration of this matter. Please let me know if you have any questions.

Sincerely,

Alan Gilda

Alan Gilda, Bucket Miner
N. Idaho
gmr@yahoo.com