

From: [Austin Walkins](#)
To: [Rule Making](#)
Cc: [Jonathan Oppenheimer](#); [josh johnson](#)
Subject: ICL Comments re Mine Land Reclamation Rulemaking
Date: Thursday, July 23, 2020 02:04:44 PM
Attachments: [ICL comments re July 17 2020 IDL Mine Reclamation Rulemaking.pdf](#)

Mr. Wilson,

Attached please find comments from the Idaho Conservation League regarding the Idaho Department of Land's July 17th, 2020, rulemaking on mine land reclamation. We appreciate the opportunity to participate in this negotiated rulemaking and we appreciate your consideration of our comments.

Respectfully,

Austin Walkins He|Him ([what's this?](#))
Climate Campaign Coordinator
Idaho Conservation League
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July 23, 2020

Eric Wilson
Resource Protection and Assistance Bureau Chief
IDL Boise Staff Office
300 N. 6th St., Suite 103
Boise, ID 83702

Submitted via email: rulemaking@idl.idaho.gov

RE: ICL's Comments re: Rules Governing Mined Land Reclamation, July 17th, 2020, Rulemaking for IDAPA 20.03.02; Docket 20-0302-2001

Dear Mr. Wilson,

Thank you for the opportunity to submit comments regarding the Idaho Department of Land's (IDL) July 17th, 2020, rulemaking on Rules Governing Mined Land Reclamation, Docket 20-0302-2001.

Since 1973, the Idaho Conservation League has been Idaho's leading voice for clean water, clean air and wilderness—values that are the foundation for Idaho's extraordinary quality of life. The Idaho Conservation League works to protect these values through public education, outreach, advocacy and policy development. As Idaho's largest state-based conservation organization, we represent over 30,000 supporters, many of whom have a deep personal interest in protecting water quality and aquatic habitat throughout Idaho.

We thank you for the opportunity to submit these topics and ask that you please send us subsequent material related to this rulemaking. Our comments can be found following this letter. Please do not hesitate to contact me at 208-345-6933 ext. 23 or awalkins@idahoconservation.org if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Austin Walkins". The signature is written in a cursive style with a large initial "A" and "W".

Austin Walkins
Climate Campaign Coordinator

Regulatory Gaps

During the July 17th rulemaking meeting, stakeholders raised concerns regarding regulatory “gaps” in the current draft of these rules. Issues highlighted during the rulemaking included:

- Reliance on IPDES, SWPPP, and groundwater Points of Compliance (POC) permits for assessing reclamation impacts to water quality, despite the fact that the timing and duration of these permits are significantly different than when reclamation activities will ultimately be occurring,
- Off-site processing facilities and whether or not these rules applied - or should apply - to such facilities to be consistent with current industry and regulatory practice, and
- The applicability of these rules to existing (pre July 1, 2019) underground mines, particularly given that Idaho’s existing financial assurance requirements for underground mines are minimal.

We look forward to how IDL will address these concerns in the next draft. However, we remain concerned that neither IDL or IDEQ appeared to know who was ultimately responsible for regulating some of the issues outlined above. We request that IDL and IDEQ meet before the next meeting and be prepared to discuss how the aforementioned issues will be regulated to ensure compliance with all applicable state and federal laws and requirements.

In addition, we believe it would be prudent to elevate this issue to Office of Idaho Attorney General Lawrence Wasden to request an opinion related to responsibilities under these rules, in combination with other responsibilities pursuant to existing agreements, Memorandum of Understanding, etc. Failing to appropriately regulate activities that could pollute Idaho’s air, water, and soil can have significant repercussions for the state and/or the regulated community. Having Mr. Wasden review and provide clarity on these regulatory gaps prior to completing the negotiated portion of this rulemaking would be beneficial to all stakeholders.