

# STATE BOARD OF LAND COMMISSIONERS

November 15, 2022

Regular Agenda

## Subject

Negotiated rulemaking for IDAPA 20.03.03 *Rules Governing Administration of the Reclamation Fund*

## Question Presented

Shall the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.03 *Rules Governing Administration of the Reclamation Fund*?

## Background

The Idaho Department of Lands (Department) administers these rules under the authority of Title 47, Chapter 18, Idaho Code. IDAPA 20.03.03 provides consistent guidance in how Idaho's Reclamation Fund (Fund) is implemented. The Fund is a type of state bond pool created in 2002 to provide an alternative form of performance bond or financial assurance as required by Idaho mining regulations. The Fund is to be used by the Department to complete reclamation in the event an operator is unable to so.

Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2023 with the goal of simplifying the rules for increased clarity and ease of use.

## Discussion

These rules were last reviewed in 2019 under the Red Tape Reduction Act, which reduced the total word count by 22% and the number of restrictive words by 55%. Additional reductions will be evaluated in the new rule chapter. The Department will review the rule with stakeholders to ensure that it is right-sized.

A proposed timeline for the rulemaking process is provided in Attachment 1.

## Recommendation

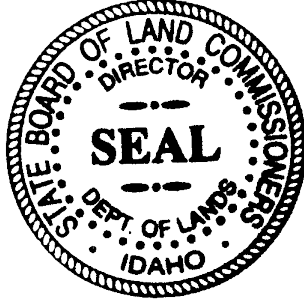
Authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.03 *Rules Governing Administration of the Reclamation Fund*.

## Board Action

A motion was made by Attorney General Wasden that the Land Board authorize the Department to initiate negotiated rulemaking for IDAPA 20.03.03 Rules Governing Administration of the Reclamation Fund. Superintendent Ybarra seconded the motion. The motion carried on a vote of 4-0.

## Attachments

1. Draft rulemaking timeline





## Draft Rulemaking Timeline

IDAPA 20.03.03

### Rules Governing Administration of the Reclamation Fund

November 15, 2022	Approval from Land Board to start negotiated rulemaking (regular agenda)
February 24, 2023	Last day to submit <i>Administrative Rules Request Form</i> to the Division of Financial Management (DFM) for Bulletin publication in April
March 2023	Post information on Idaho Department of Lands website about this rulemaking
April 5, 2023	<i>Notice of Intent to Promulgate Rules</i> publishes in the Idaho Administrative Bulletin; negotiated rulemaking and public comment period begins
April 26, 2023	Negotiated rulemaking public meeting in Boise and via Zoom
May 3, 2023	Negotiated rulemaking public meeting in Coeur d'Alene and via Zoom
June 16, 2023	End of public comment period for negotiated rulemaking
July 18, 2023	Present update on this rulemaking to the Land Board (information agenda)
July 21, 2023	Last day to submit proposed rule to DFM for Bulletin publication in September
August 4, 2023	Last day to submit <i>Notice of Proposed Rule</i> to the Office of the Administrative Rules Coordinator (OARC) for Bulletin publication in September
September 6, 2023	Proposed rule publishes in the Idaho Administrative Bulletin and 21-day written public comment period begins
September 20, 2023	Deadline to request a public hearing on proposed rule
September 27, 2023	End of written public comment period on proposed rule
October 17, 2023	Request approval from Land Board to adopt pending fee rule (regular agenda)
November 9, 2023	Last day to submit <i>Notice of Pending Fee Rule</i> to OARC for publication in December 2023
	Pending fee rule to be reviewed during the 2024 legislative session

*Note:* All dates are subject to change.