



Negotiated Rulemaking Meeting

Idaho Department of Lands

Docket No. 20-0301-2301

April 19, 2023, 1:00 p.m. (MT)

Riggins, Idaho and Zoom

Negotiated Rulemaking Meeting Notes – April 19, 2023

Name of Negotiated Rulemaking: Rules Governing Dredge and Placer Mining in Idaho (IDAPA 20.03.01)

Docket number: 20-0301-2301

Location: Riggins, Salmon Rapids Lodge Conference Room and on Zoom/Teleconference

Date/Time: Wednesday, April 19, 2023 – 1:00 p.m. PT

Attendees: See participant list

Facilitated by: Eric Wilson, – Resource Protection and Assistance Bureau Chief, Idaho Department of Lands (IDL)

This is the first of 4 scheduled meetings during the public comment period April 4 – June 16, 2023.

Eric Wilson presented an overview of rulemaking and reviewed the draft rule changes.

Discussion:

- There was a question about the Prospective Analysis form and when the remaining questions would be filled out. IDL stated that only questions 1, 2, and 5 need to be filled out for negotiated rulemaking. The remaining questions will be filled out prior to entering the Proposed Rulemaking stage.
- There was some discussion about whether IDL regulates the use of suction dredges that are less than 8 inches and how that determination is made. IDL stated that the Idaho Department of Water Resources regulates this activity through their Stream Channel Alteration Permits with recreational mining permits issued through their website. A related discussion occurred regarding dredge mining on navigable rivers occupying public trust resources and the applicability of Idaho Code 47-13. IDL believes the statute only applies to suction dredges with intake diameters over 8 inches. It was suggested that the negotiated rulemaking meeting for IDAPA 20.03.05 would be a better opportunity to discuss operations on navigable rivers.
- An additional question about the zero-based rulemaking and some gray areas that needed clearing up. IDL stated that they have been given clear direction from the Division of Financial Management (DFM) about eliminating repeated language. This was confirmed by DFM.
- More discussion took place on the statute 47-13 definition of what constitutes dredge mining with the 1/2 acre of land threshold for exploration and the definition of motorized earth moving equipment that excludes suction dredges with an intake diameter of 8 inches or less. IDL's interpretation is that dredge and placer operations using smaller diameter suction dredges are not subject to this regulation. Idaho Department of Lands has been coordinating with water resources and other state and federal agencies for 30 years to avoid stream reaches and periods of time when spawning occurs.
- Some concern was expressed that IDL has a regulatory gap by not regulating smaller suction dredges. IDL believes that IDWR fills this gap and duplicating permitting efforts for suction dredges 8 inches or less in diameter would not be productive. No examples of these smaller dredges disturbing ½ acre or more are known, so it is more of a theoretical argument than a substantive one.