



Negotiated Rulemaking Meeting Idaho

Department of Lands

Docket No. 20-0301-2301

April 26, 2023, 1:00 p.m. (MT)

Boise, Idaho and Zoom

Negotiated Rulemaking Meeting Notes – April 26, 2023

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

Docket number: 20-0301-2301

Location: Boise Staff Office, Garnet Conference Room and on Zoom/Teleconference

Date/Time: Wednesday, April 26, 2023 – 1:00 p.m. MT

Attendees: See participant list

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

This is the second 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:

- Comments regarding the Prospective Analysis form for zero-based rulemaking and how other states manage this process started out the discussions. IDL stated that this research is still ongoing and when the form is complete it will be posted on the IDL website. The research takes a lot of time and IDL has not been allocated any additional staff or resources for the five-year rules review process. The full Prospective Analysis form is not required until later rulemaking stages.
- Additional discussions took place regarding a perceived gap in the regulation of suction dredges with an intake diameter of 8 inches or less, especially if they disturb more than ½ acre. IDL believes that this activity is regulated adequately by the Idaho Department of Water Resources (IDWR) through their permits.
- A question came up regarding a public trust analysis of the impacts associated with suction dredging and how IDL justifies transferring authority to IDWR. IDL stated that the statute covers more than just navigable rivers that are managed under the public trust doctrine. The statute also covers smaller streams and upland areas adjacent to streams. In addition, IDL looks to IDWR to regulate the smaller sized suction dredges because their regulations are more specific to that activity and we do not believe our statute applies to that activity.
- There was a question about how is IDL involved in monitoring, oversight, or enforcement relative to some activities where someone could possibly be in violation and how does IDL find out about potential impacts. The answer to this question was that IDL is in communication with their counterpart at IDWR and the Idaho Department of Environmental Quality (IDEQ). IDL does get notified when applications are submitted and when there are potential violations. The agencies are coordinating and most of it occurs behind the scenes.