**Negotiated Rulemaking Summary**

**IDAPA 20.03.03, Rules Governing Administration of the Reclamation Fund**

Docket No. 20-0303-2301

Following Executive Order 2020-01: Zero-Based Regulation, this rule chapter is scheduled to be repealed and replaced in 2023 for review during the 2024 legislative session.

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 do so.

Negotiated rulemaking for these rules was approved by the Land Board on November 15, 2022 (Attachment 1). The Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking was published in the Idaho Administrative Bulletin on April 5, 2023.

# Stakeholder Outreach

The IDL’s outreach for negotiated rulemaking included the following:

* Published the Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin
* Created a rulemaking webpage to post documents, scheduling information, and comments (<https://www.idl.idaho.gov/rulemaking/docket-20-0303-2301/>)
* Posted meeting information on social media
* Posted rulemaking notices to Townhall Idaho
* Mailed postcards to 371 customers

# Negotiated Rulemaking Public Meetings

Negotiated rulemaking meetings were held on April 26 and May 4, 2023. A total of 6 non-Department affiliated people attended these meetings.

Some discussion occurred regarding the elimination of Section 002, Administrative Appeals. All appeals are guided by Title 67, Chapter 52, Idaho Code. Some discussion occurred regarding Subsection 018.02 and how it relates to the actual limits on participation. The maximum limits are set by rule, but the Land Board has flexibility to set lower actual limits. This is determined through periodic actuarial analysis. The current limits set by the Land Board in 2020 are 40 acres and $220,000 in reclamation costs.

# Written Comments

No written comments were received.

# Concluding Negotiated Rulemaking

No unresolved issues were encountered.

IDL concluded the negotiated rulemaking process and submitted the rule changes for publication as a proposed rule in the September 6, 2023, edition of the Idaho Administrative Bulletin. Key documents from the rulemaking record are available at <https://www.idl.idaho.gov/rulemaking/docket-20-0303-2301/>, including research materials, and the proposed rule text in legislative format to allow the reader to easily identify changes.

# Response to Comments on Negotiated Rule

IDAPA 20.03.03, Rules Governing Administration of the Reclamation Fund

| **Comment** | **Rule Section** | **Response** |
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| Why was Section 002, Administrative Appeals, eliminated? | 002 | 1. All appeals are guided by Title 67, Chapter 52, Idaho Code. This section is not needed.
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| How does Subsection 018.02 relate to the actual limits on participation? | 018 | 1. The maximum limits are set by rule, but the Land Board has flexibility to set lower actual limits. This is determined through periodic actuarial analysis. The current limits set by the Land Board in 2020 are 40 acres and $220,000 in reclamation costs.
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