

STATE BOARD OF LAND COMMISSIONERS

November 21, 2023

Regular Agenda

Subject

Adoption of Pending Fee Rule, IDAPA 20.03.01 *Rules Governing Dredge and Placer Mining Operations in Idaho*

Question Presented

Shall the Land Board adopt the pending fee rule for IDAPA 20.03.01?

Background

Negotiated rulemaking for these rules was approved by the State Board of Land Commissioners (Land Board) on November 15, 2022. 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.

The Idaho Department of Lands (Department) administers these rules under the authority of the Idaho Dredge and Placer Mining Protection Act (Title 47, Chapter 13, Idaho Code). Dredge and placer mining is the extraction of minerals from a placer deposit left by a stream and containing particles of gold or other valuable minerals. A placer deposit can be in a natural watercourse or an ancient stream channel high above an existing stream. Extraction is done using motorized earth-moving equipment, including suction dredges with an intake nozzle over 8 inches in diameter. IDAPA 20.03.01 allows responsible resource extraction while protecting the lands, streams, and watercourses of the state.

Discussion

The Department'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.
- Posted meeting information on social media.
- Emailed 11 customers and other interested parties.
- Mailed postcards to 13 customers.

Negotiated rulemaking meetings were held on April 19, April 26, May 4, and May 10, 2023. A total of 13 non-Department affiliated people attended these meetings. No written comments were received. Substantive comments and the Department's responses are summarized in Attachment 1. No changes were made based on comments received. Some

minor changes to the initial draft were made based on internal discussions and to further reduce word count.

The proposed rule was published in the September 6, 2023 Administrative Bulletin. An excerpt of the Notice of Proposed Rulemaking is in Attachment 2. No comments were received.

The proposed rule reduces the overall regulatory burden by reducing the total word count and the number of restrictive words. The proposed rule includes the following changes:

- The annual inspection fees of \$100 for permits on United States Forest Service lands and \$250 for all other permits would be raised to \$435 for all permits. These fees have not changed since 1991. This will cover the Department's cost of conducting these inspections.
- Late payment policy is updated.
- Surety companies issuing bonds must be listed in the U.S Department of the Treasury's Circular 570.
- The 120-day cancellation notification is reduced to 90 days.
- Time Deposit Receipts are recognized as acceptable forms of bonding.

Upon further review, a few punctuation and grammatical changes were needed as well as several word changes for better clarity and to better align with the statute. Attachment 3 has the draft Pending Rule consisting of the Proposed Rule with the engrossed changes highlighted in yellow.

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Fee Rule (Attachment 4) to the Office of the Administrative Rules Coordinator for the 2024 legislative session.

Recommendation

Adopt the pending fee rule for IDAPA 20.03.01 *Rules Governing Dredge and Placer Mining Operations in Idaho*.

Board Action

Attachments

1. Summary of Negotiated Rulemaking
2. Notice of Proposed Rulemaking
3. Draft Pending Rule
4. Draft Notice of Adoption of Pending Fee Rule