

Zero-Based Regulation Prospective Analysis

Agency Name: Idaho Department of Lands

Rule Docket Number: 20-0303-2301

IDAPA 20.03.03, Rules Governing Administration of the Reclamation Fund

1. What is the specific legal authority for this proposed rule?

Statute Section (include direct link)	Is the authority mandatory or discretionary?
Idaho Code Title 47, Chapter 18 – Financial Assurance	Discretionary
Idaho Code § 58-104(6) – State Land Board – Powers and Duties	Discretionary
Idaho Code 58-105 – Director	Discretionary

2. Define the specific problem that the proposed rule is attempting to solve? Can the problem be addressed by non-regulatory measures?

IDAPA 20.03.03 provides consistent guidance for implementation of the Reclamation Fund. The proposed changes seek to comply with Executive Order 2020-01.

3. How have other jurisdictions approached the problem this proposed rule intends to address?

a. Is this proposed rule related to any existing federal law?

Federal citation	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
N/A	N/A	N/A

b. How does this proposed rule compare to other state laws?

State	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
Washington	N/A	N/A
Oregon	N/A	N/A
Nevada	https://www.leg.state.nv.us/NAC/NAC-519a.html https://www.leg.state.nv.us/nrs/nrs-519a.html https://minerals.nv.gov/Programs/BP/BP/ Maximum bond amount is \$3 million. Small projects must deposit 100% of the bond amount and pay an annual premium of 2%. Larger projects have a deposit of 50% to 80% of the bond amount with annual premiums of 5% to 10%. When bonding is released, deposit and annual payments of 75% of bond amount are refunded. After a forfeiture, state may bring action to recover costs of reclamation. Financial review of applicants is required. Any type of mine may participate.	Maximum bond amount is \$440,000, and some types of mines are not able to participate as described in Section 017. No refunds are given.
Utah	N/A	N/A
Wyoming	N/A	N/A
Montana	N/A	N/A
Alaska	No maximum bond amount per site or operator exists, but reclamation bonding is limited to \$750 per acre. An initial deposit of 15% of the bond amount is required, and an annual fee of 5% or less of the bond amount. If the cost of reclamation is \$750 per acre or higher, then this translates into a deposit of \$112.50 per acre and an annual payment of \$37.50 per acre. Only the 15% deposit is returned when reclamation is completed. State must first attempt to recover the full bond amount, then the bond pool may be used to reclaim the site. Operations that chemically process ore or may generate acid are not eligible to participate.	Maximum bond amount is \$440,000. No refunds are given.
South Dakota	N/A	N/A

c. If the Idaho proposed rule has a more stringent requirement than the federal government or the reviewed states, describe the evidence base or unique circumstances that justifies the enhanced requirement:

Idaho has a smaller maximum bond amount than Nevada and Alaska, but this is offset by the lack of a deposit and the lower annual payments. This creates a smaller dedicated fund that restricts participation in a variety of ways to limit the state’s liability exposure. The

bond pool in Idaho was set up specifically to cover just the small to medium sized aggregate, decorative rock, quarry, and placer operations.

4. What evidence is there that the rule, as proposed, will solve the problem?

The rules have been successfully implementing the program since 2004. Approximately 600 mining operations are covered by the Bond Assurance Fund.

5. What is the anticipated impact of the proposed rule on various stakeholders? Include, how will you involve them in the negotiated rulemaking process?

Category	Potential Impact
Fiscal impact to the state General Fund, any dedicated fund, or federal fund	No impact to the dedicated Reclamation Fund or the General Fund is anticipated.
Impact to Idaho businesses, with special consideration for small businesses	No impacts to businesses are anticipated.
Impact to any local government in Idaho	No impact to local government is anticipated.

6. What cumulative regulatory volume does this proposed rule add?

Category	Impact
Net change in word count	3% Reduction
Net change in restrictive word count	35% Reduction