

Negotiated Rulemaking Meeting Notes – April 24, 2024

Sandpoint, Idaho

Name of Negotiated Rulemaking: Rules Governing Mined Land Reclamation (IDAPA 20.03.02)

Docket number: 20-0302-2401

Location: Sandpoint Community Hall and on Zoom/Teleconference

Date/Time: Wednesday, April 24, 2024 – 10:00 a.m. PDT

Attendees: See participant list

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

This is the first of 6 scheduled meetings in April and May, 2024.

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

Discussion:

- The draft changes to Subsection 071.04, Application Package for Permanent Closure, were discussed. These changes eliminate the specific content of an application form and instead refer to “An application provided by the Director”. One participant was concerned about guidance taking the place of rules for the contents of the application. We then went over the prior contents of the application form which included:
 - Name, location, and address of the cyanidation facility
 - Name, mailing address, and phone number of the operator
 - Land ownership status
 - Legal description
 - Legal structure and primary place of business of the operator

IDL agreed that operators need consistency for the required parts of an application, but also stated that the information listed was basic information needed by IDL. IDL has also added email addresses and other information to the application form.

- A representative from the Division of Financial Management stated that some agencies were adding provisions in their rules for a 14 to 21 day notification prior to changing their forms. This allows for some feedback from the agencies’ customers prior to the revised forms being used.
- A **Question** was asked about the deletion of subsection 060.08. This subsection allows the operator and IDL to agree to additional reclamation of an exploration project beyond the requirements in the rules. **Response:** IDL replied that no operator had requested this over the last 20 years or more, and nothing would prevent an operator from doing additional reclamation. The exploration reclamation requirements in the rules provide a minimum standard, and additional work would not be opposed. Also, most large exploration projects involve BLM or USFS lands and those agencies’ requirements would likely exceed the minimum standards in the IDL rule.
- A **Question** was asked about the new sentence in Subsection 120.01 regarding the amount of the initial financial assurance, and if that was related to a statutory requirement. **Response:** IDL confirmed that it was from a statutory requirement.

- A **Request** was made for specifically outlining what changes from 2019 do or do not apply when discussing the draft revisions to Section 200. **Response:** IDL replied that a plan is subject to the rules in place at the time of approval, and the new rules would only apply to new amendments for plans that were already approved in 2019. No confusion has been reported from the operators. Some clarification in the guidance documents may be more appropriate than further clarification in the rules.