

# STATE BOARD OF LAND COMMISSIONERS

November 18, 2025

Regular Agenda

## Subject

Adoption of Pending Rule, IDAPA 20.03.02, Rules Governing Mined Land Reclamation.

## Question Presented

Shall the Land Board adopt the pending rule for IDAPA 20.03.02, Rules Governing Mined Land Reclamation?

## Background

The Idaho Department of Lands (Department) administers these rules under the authority of the Idaho Mined Land Reclamation Act (Title 47, Chapter 15, Idaho Code). These rules establish the notification requirements for exploration and the application, operation, and reclamation requirements for mined lands. In addition, they establish the application and closure requirements for cyanidation facilities. Lastly, these rules contain the financial assurance requirements for mining and cyanidation facilities.

Negotiated rulemaking was approved by the State Board of Land Commissioners (Land Board) on February 20, 2024. Following Executive Order 2020-01, Zero-Based Regulation, this rule chapter is scheduled for a comprehensive review in 2025. The Department began negotiations in spring of 2024.

## Discussion

The Department's outreach for negotiated rulemaking included the following:

- Posting in the Idaho Administrative Bulletin in 2024 and 2025.
- Sending postcards to all reclamation plan holders, state agencies, statewide in 2024 and 2025.
- Sending emails to all reclamation plan holders, as well as state and local agencies.
- Hosting public meetings, each with a video-conferencing option.

In the 11 meetings held over 2024 and 2025, a total of 22 non-Department members attended the meetings in person, and a total of 53 attended the meetings virtually.

The Department received 56 distinct comments, which were addressed in the negotiated rulemaking summary, included as Attachment 1.

The proposed rule was published in the October 2025 Administrative Bulletin (Attachment 2). A public hearing was held on October 7, 2025, to solicit public testimony. A total of five non-Department members attended the hearing. One

attendee provided testimony. Three written comments from two commenters were received during the proposed rule comment period. A summary of all comments is included as Attachment 3. Several edits to the rule were incorporated based on Department review and grammatical adjustments. Attachment 4 is the draft pending rule consisting of the proposed rule with changes highlighted in yellow.

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

- 3.6 percent reduction in word count, 24 percent reduction in restrictive words.
- Omitted duplicative definitions and added definitions.
- Replaced the word "director" with "department" and changed "disturbed" to "affected."
- Replaced the word "shall" with the word "will."

If approved by the Land Board, the Department will submit the Notice of Adoption of Pending Rule (Attachment 5) to the Office of the Administrative Rules Coordinator for the 2026 legislative session.

### **Recommendation**

Adopt the pending rule with changes to the proposed rule text for IDAPA 20.03.02, Rules Governing Mined Land Reclamation.

### **Board Action**

A motion was made by Secretary of State McGrane that the Land Board adopt the pending rule changes proposed to the text of IDAPA 20.03.02, Rules Governing Mined Land Reclamation. Controller Woolf seconded the motion. The motion carried on a vote of 5-0.

### **Attachments**

1. Negotiated Rulemaking Summary
2. Notice of Proposed Rulemaking
3. Proposed Rule Comments Summary
4. Pending Rule Text (changes to Proposed Rule)
5. Draft Notice of Rulemaking—Adoption of Pending Rule

