

## IDAPA 20 – IDAHO DEPARTMENT OF LANDS

### 20.03.02 – RULES GOVERNING EXPLORATION, SURFACE MINING, AND CLOSURE OF CYANIDATION FACILITIES

DOCKET NO. 20-0302-1901

#### NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 47-1505(3) and 58-104(6), Idaho Code.

**MEETING SCHEDULE:** All scheduled negotiated rulemaking meetings will occur between May 9 and July 11, 2019 and will be posted on the agency website at <https://www.idl.idaho.gov/rulemaking/index.html>. Please contact Eric Wilson at (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov) to be added to the email list of interested parties.

The meeting sites will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Those interested in participating in the negotiated rulemaking process are encouraged to attend scheduled meetings and submit written comments to the address below or by email to [rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov).

Preliminary rule drafts, research materials, and supporting documents will be posted to the agency website throughout the rulemaking process at <https://www.idl.idaho.gov/rulemaking/index.html>.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available on the agency website and to interested persons who contact the agency.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

House Bill 141 was signed into law during the 2019 legislative session and significantly modified the Idaho Surface Mining Act. This rulemaking is needed to implement those statutory changes. One of the principle needs is updating terminology throughout the rule due to new terms, such as financial assurance and post-closure.

In addition, the surface impacts of underground mines are now regulated by this act, so the rules need to provide the reclamation plan requirements for underground mines and the reclamation standards. Application fees for reclamation plans are also authorized by the act, so how those fees are set and a proposed fee schedule will be included in this rulemaking.

Reclamation plans will need to meet all Idaho water quality standards, so rule changes are needed to describe how and when that is required during the application process and how that affects the operation and reclamation of mines. Reclamation plans must also plan for post-closure activities, such as water treatment, as needed. In conjunction with addressing water quality protection and post-closure activities in reclamation plans, the rules must also describe how financial assurance will be calculated and provided to cover the actual costs of these activities, and all other activities in a reclamation plan.

Additional types of financial assurance are now allowed by this act, including corporate guarantees and trusts, so an important issue in this rulemaking is determining what standards will be set for these financial assurances and how they are maintained and released. Lastly, the rules need to address the new requirement for the department to review every reclamation plan at least once every five years.

**ASSISTANCE ON TECHNICAL QUESTIONS AND OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Eric Wilson at (208) 334-0261 or [ewilson@idl.idaho.gov](mailto:ewilson@idl.idaho.gov). Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts and the schedule of negotiated rulemaking meetings, can be found on the agency website at the following web address: <https://www.idl.idaho.gov/rulemaking/index.html>.

**SUBMISSION OF WRITTEN COMMENTS:** Anyone may submit written comments regarding this negotiated rulemaking to the address below or by email to [rulemaking@idl.idaho.gov](mailto:rulemaking@idl.idaho.gov). All written comments must be directed to the undersigned and must be delivered on or before July 15, 2019.

Dated this 5th day of April, 2019.

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