



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Resources & Conservation Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: September 18, 2019

SUBJECT: Idaho Department of Lands

IDAPA 20.03.03 - Rules Governing Administration of the Reclamation Fund - Proposed Rule (Docket No. 20-0303-1901)

Summary and Stated Reasons for the Rule

The Idaho Department of Lands submits notice of proposed rule at IDAPA 20.03.03 - Rules Governing Administration of the Reclamation Fund. According to the department, passage of House Bill 141 during the 2019 legislative session amended definitions and terminology associated with Idaho's Reclamation Fund. The rule revisions will update definitions and terminology to comport with the statutory changes. In addition, the department notes that the proposed rule will remove mandatory participation requirements for operators with a single mining operation with less than 40 acres of disturbance. The department notes that the rule will allow operators to provide alternative forms of financial assurance if it satisfies a minimum reclamation dollar per acre and is provided in a form acceptable to the department. The department adds that it is proposing changes to allow more flexibility to the limits that restrict participation in the fund. The department states that currently, operators with a total cumulative mining disturbance greater than 40 acres and greater than \$100,000 of reclamation liability are ineligible to participate in the fund, and the Land Board is required to set a minimum balance to be maintained in the fund to cover the fund's reclamation liabilities. IDL is proposing to remove the limits and instead allow the Land Board to set disturbance and reclamation cost limits based on the Fund's required minimum balance. The department also indicates that some words and restrictions, wherever possible, have been removed to comply with the Red Tape Reduction Act.

Negotiated Rulemaking / Fiscal Impact

The department states that negotiated rulemaking was conducted.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 58-104 and 58-105, Idaho Code.

cc: Idaho Department of Lands
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***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.