

IDAHO OIL AND GAS CONSERVATION COMMISSION OPEN MEETING CHECKLIST

FOR MEETING DATE: June 15, 2021

Regular Meetings

	Notice of Meeting posted in prominent place in IDL’s Boise Headquarters office five (5) calendar days before meeting.
	Notice of Meeting posted in prominent place in IDL’s Coeur d’Alene Headquarters office five (5) calendar days before meeting.
	Notice of Meeting posted in prominent place at meeting location five (5) calendar days before meeting.
	Notice of Meeting emailed/faxed to list of media and interested citizens who have requested such notice five (5) calendar days before meeting.
	Notice of Meeting posted electronically on the OGCC public website https://ogcc.idaho.gov/ five (5) calendar days before meeting.
	Agenda posted in prominent place in IDL’s Boise Headquarters office forty-eight (48) hours before meeting.
	Agenda posted in prominent place in IDL’s Coeur d’Alene Headquarters office forty-eight (48) hours before meeting.
	Agenda posted in prominent place at meeting location forty-eight (48) hours before meeting.
	Agenda emailed/faxed to list of media and interested citizens who have requested such notice forty-eight (48) hours before meeting.
	Agenda posted electronically on the OGCC public website https://ogcc.idaho.gov/ forty-eight (48) hours before meeting.
11/16/20 01/08/21 02/11/21 04/15/21	Annual meeting schedule posted – Director's Office, Boise and Staff Office, CDA <ul style="list-style-type: none"> • Revised Annual meeting schedule posted – Director's Office, Boise and Staff Office, CDA • 2nd Revised Annual meeting schedule posted – Director's Office, Boise and Staff Office, CDA • 3rd Revised Annual meeting schedule posted – Director's Office, Boise and Staff Office, CDA

Special Meetings

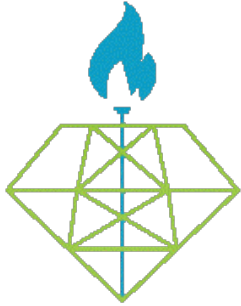
06/09/21	Notice of Meeting and Agenda posted in a prominent place in IDL’s Boise Headquarters office twenty-four (24) hours before meeting.
06/09/21	Notice of Meeting and Agenda posted in a prominent place in IDL’s Coeur d’Alene Headquarters office twenty-four (24) hours before meeting.
06/09/21	Notice of Meeting and Agenda posted at meeting location twenty-four (24) hours before meeting.
06/09/21	Notice of Meeting and Agenda emailed/faxed to list of media and interested citizens who have requested such notice twenty-four (24) hours before meeting.
06/09/21	Notice of Meeting and Agenda posted electronically on the OGCC public website https://ogcc.idaho.gov/ twenty-four (24) hours before meeting.
	Emergency situation exists – no advance Notice of Meeting or Agenda needed. "Emergency" defined in Idaho Code § 74-204(2).

Executive Sessions *(If only an Executive Session will be held)*

	Notice of Meeting and Agenda posted in IDL’s Boise Headquarters office twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda posted in IDL’s Coeur d’Alene Headquarters office twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda emailed/faxed to list of media and interested citizens who have requested such notice twenty-four (24) hours before meeting.
	Notice of Meeting and Agenda posted electronically on the OGCC public website https://ogcc.idaho.gov/ twenty-four (24) hours before meeting.
	Notice contains reason for the executive session and the applicable provision of Idaho Code § 74-206 that authorizes the executive session.

Kourtney Romine
RECORDING SECRETARY

06/09/2021
DATE



IDAHO OIL AND GAS CONSERVATION COMMISSION

Betty Coppersmith, Chairman
Marc Shigeta, Vice Chairman
Jim Classen, Commissioner
Ray Hinchcliff, Commissioner
Dustin T. Miller, Commissioner

Mick Thomas, Secretary to the Commission

NOTICE OF PUBLIC MEETING JUNE 2021

IDAHO OIL AND GAS CONSERVATION COMMISSION TO HOLD A SPECIAL MEETING ON TUESDAY, JUNE 15, 2021

The Idaho Oil and Gas Conservation Commission will hold a Special Meeting on **Tuesday, June 15, 2021**, at the **Idaho Department of Lands, Syringa Conference Rooms, 300 N 6th Street, Suite 103, Boise, Idaho**. The meeting is scheduled to begin at **1:00 pm (MT)**.

Topic: Omnibus Rulemaking – Adoption of Temporary Rule for IDAPA 20.07.02 – Rules Governing Conservation of Oil and Natural Gas in the State of Idaho

Please note meeting location, time, and additional details below.

The Oil and Gas Conservation Commission will conduct this meeting in person and via teleconference. At least one Commission member will attend the meeting at the physical location.

This meeting is open to the public. No public comment will be taken at this meeting.

The Governor's [Stage 4 Stay Healthy Guidelines](#) dated 5/11/2021 allows for public meetings of any size with adherence to physical distancing and sanitation requirements. Total audience capacity at this venue due to social distancing measures is approximately 10 people. Individuals are highly encouraged to listen via teleconference. All in-person attendees must comply with current COVID-19 safety protocols for public gatherings in the City of Boise¹. Physical distancing measures reduce the meeting room's normal attendance capacity.

¹ <https://www.cityofboise.org/departments/mayor/coronavirus-covid-19-information/public-health-emergency-order-no-20-17/>

The Idaho Oil and Gas Conservation Commission is established by Idaho Code § 47-314.

Idaho Department of Lands, 300 N 6th Street, Suite 103, Boise ID 83702

This notice is published pursuant to § 74-204 Idaho Code. For additional information regarding Idaho's Open Meeting law, please see Idaho Code §§ 74-201 through 74-208.

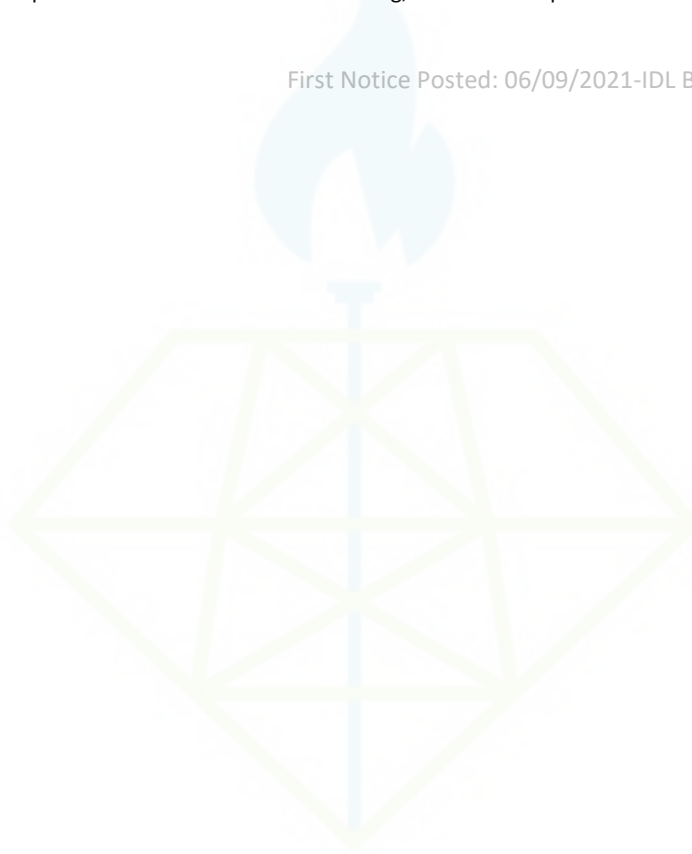
Contingent upon safety protocols, the public may attend the meeting in person or via teleconference. Members of the public may listen to the meeting via teleconference, using the following:

Dial toll-free: 1-877-820-7831

Enter passcode: 5074902, followed by (#) key

There will be no public comment taken at this meeting, therefore the passcode is for listening only.

First Notice Posted: 06/09/2021-IDL Boise; 06/09/2021-IDL CDA



IDAHO OIL & GAS CONSERVATION COMMISSION

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Idaho Department of Lands, 300 N 6th Street, Suite 103, Boise ID 83702

This notice is published pursuant to § 74-204 Idaho Code. For additional information regarding Idaho's Open Meeting law, please see Idaho Code §§ 74-201 through 74-208.



IDAHO OIL AND GAS CONSERVATION COMMISSION

Betty Coppersmith, Chairman
Marc Shigeta, Vice Chairman
Jim Classen, Commissioner
Ray Hinchcliff, Commissioner
Dustin T. Miller, Commissioner

Mick Thomas, Secretary to the Commission

Final Agenda

Idaho Oil and Gas Conservation Commission Special Meeting

June 15, 2021 – 1:00 PM (MT)

Idaho Department of Lands, Syringa Conference Rooms, 300 N 6th Street, Suite 103, Boise, Idaho.

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The Oil and Gas Conservation Commission will conduct this meeting in person and via teleconference. At least one Commission member will attend the meeting at the physical location.

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There will be no public comment taken at this meeting, therefore the passcode is for listening only.

- **ANNOUNCEMENTS**

No public comment will be taken at this meeting.

- **REGULAR – ACTION ITEM(S)**

- 1. Omnibus Rulemaking – Adoption of Temporary Rule for IDAPA 20.07.02 – Rules Governing Conservation of Oil and Natural Gas in the State of Idaho** – Presented by Mick Thomas, Division Administrator – Minerals, Public Trust, and Oil & Gas

¹ <https://www.cityofboise.org/departments/mayor/coronavirus-covid-19-information/public-health-emergency-order-no-20-17/>



Idaho Statutes

Idaho Statutes are updated to the web July 1 following the legislative session.

TITLE 74
TRANSPARENT AND ETHICAL GOVERNMENT
CHAPTER 2
OPEN MEETINGS LAW

74-206. EXECUTIVE SESSIONS – WHEN AUTHORIZED. (1) An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds (2/3) vote of the governing body. An executive session may be held:

- (a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;
- (b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;
- (c) To acquire an interest in real property not owned by a public agency;
- (d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code;
- (e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;
- (f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;
- (g) By the commission of pardons and parole, as provided by law;
- (h) By the custody review board of the Idaho department of juvenile corrections, as provided by law;
- (i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of

a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement; or

(j) To consider labor contract matters authorized under section 74-206A (1)(a) and (b), Idaho Code.

(2) The exceptions to the general policy in favor of open meetings stated in this section shall be narrowly construed. It shall be a violation of this chapter to change the subject within the executive session to one not identified within the motion to enter the executive session or to any topic for which an executive session is not provided.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

(4) If the governing board of a public school district, charter district, or public charter school has vacancies such that fewer than two-thirds (2/3) of board members have been seated, then the board may enter into executive session on a simple roll call majority vote.

History:

[74-206, added 2015, ch. 140, sec. 5, p. 371; am. 2015, ch. 271, sec. 1, p. 1125; am. 2018, ch. 169, sec. 25, p. 377; am. 2019, ch. 114, sec. 1, p. 439.]

How current is this law?

Search the Idaho Statutes and Constitution

IDAHO OIL & GAS
CONSERVATION COMMISSION

IDAHO OIL AND GAS CONSERVATION COMMISSION
June 15, 2021
Regular Agenda

SUBJECT

Omnibus Rulemaking – Adoption of Temporary Rule for IDAPA 20.07.02 – Rules Governing Conservation of Oil and Natural Gas in the State of Idaho

BACKGROUND

Executive administrative action is required to ensure the fee rules for IDAPA 20.07.02 – Rules Governing Conservation of Oil and Natural Gas in the State of Idaho, remain in effect.

The fee rules currently in effect are the temporary rules conditionally adopted by the Oil and Gas Conservation Commission (Commission) in February 2020 and published in a special edition of the Administrative Bulletin in April 2020 (Attachment 1). The existing temporary fee rules became effective on March 20, 2020 (*sine die*) and will continue in effect until the end of the 2021 legislative session.

The pending fee rules were submitted to the 2021 Idaho Legislature for review (Attachment 2). The House Resources and Conservation Committee and the Senate Resources and Environment Committee approved the omnibus pending fee rules under docket 20-0000-2000F. To become final rules, the pending fee rules require approval by a concurrent resolution of the Idaho Legislature.

Although the Commission conditionally adopted a temporary rule for IDAPA 20.07.02 in February 2021 to become effective upon adjournment of the legislature (Attachment 3), the adjournment of the 2021 legislative session could be as late as December 31.

DISCUSSION

To ensure the continuity of administrative fee rules, the governor and his staff have directed all state agencies to adopt temporary fee rules with an effective date of July 1, 2021, and to rescind the existing temporary fee rules with the same effective date of July 1, 2021 (Attachment 4). IDAPA 20.07.02 are authorized by the Commission.

RECOMMENDATION

Rescind the existing temporary fee rules with an effective date of July 1, 2021, set forth in Attachment 1, and adopt as temporary rules, IDAPA 20.07.02 – Rules Governing Conservation of Oil and Natural Gas in the State of Idaho, as set forth in Attachment 2, to become effective on July 1, 2021.

COMMISSION ACTION

ATTACHMENTS

1. April 15, 2020, Notice of Omnibus Rulemaking – Adoption of Temporary Fee Rules
2. November 18, 2020, Notice of Omnibus Rulemaking – Adoption of Pending Fee Rules
3. February 24, 2021, Approved Commission Memo: Omnibus Rulemaking – Adoption of Temporary Rule for IDAPA 20.07.02
4. May 20, 2021, DFM Memo: Current Status of Administrative Rules and What Agencies Need to Do



IDAHO OIL & GAS
CONSERVATION COMMISSION

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

DOCKET NO. 20-0000-2000F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rules being adopted through this omnibus rulemaking is the adjournment date of the second regular session of the 65th Idaho State Legislature - March 20, 2020.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules. The action is authorized pursuant to:

- Sections 38-132 and 38-402, Idaho Code;
- Title 38, Chapter 12, including Section 38-1208, Idaho Code;
- Title 47, Chapters 3, 7, 8, 15, 16 and 18, including Sections 47-314(8), 47-315(8), 47-328(1), 47-710, 47-714, and 47-1316, Idaho Code;
- Title 58, Chapters 1, 3, 6, 12 and 13, including Sections 58-104, 58-105, 58-127, and 58-304 through 58-312, Idaho Code;
- Title 67, Chapter 52, Idaho Code;
- Article IX, Sections 7 and 8 of the Idaho Constitution; and
- The Equal Footing Doctrine (Idaho Admission Act of July 3, 1890, 26 Stat. 215, Chapter 656).

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting temporary rules:

This temporary rulemaking adopts the following chapters under IDAPA 20:

IDAPA 20

- 20.02.14, *Rules for Selling Forest Products on State-Owned Endowment Lands*
- 20.03.01, *Rules Governing Dredge and Placer Mining Operations in Idaho*
- 20.03.02, *Rules Governing Mined Land Reclamation*
- 20.03.03, *Rules Governing Administration of the Reclamation Fund*
- 20.03.04, *Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*
- 20.03.05, *Riverbed Mineral Leasing in Idaho*
- 20.03.08, *Easements on State Owned Lands*
- 20.03.09, *Easements on State Owned Submerged Lands and Formerly Submerged Lands*
- 20.03.13, *Administration of Cottage Site Leases on State Lands*
- 20.03.14, *Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases*
- 20.03.15, *Rules Governing Geothermal Leasing on Idaho State Lands*
- 20.03.16, *Rules Governing Oil and Gas Leasing on Idaho State Lands*
- 20.03.17, *Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands*
- 20.04.02, *Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws*

The **Idaho Board of Scaling Practices** adopts the following temporary rule under IDAPA 20.06:

- 20.06.01, *Rules of the Idaho Board of Scaling Practices*

The **Oil and Gas Conservation Commission** adopts the following temporary rule under IDAPA 20.07:

- 20.07.02, *Rules Governing Conservation of Oil and Natural Gas in the State of Idaho*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rules is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These temporary rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fees or charges being imposed or increased is justified and necessary to avoid immediate danger and the fees is described herein:

The fees or charges, authorized in Sections 38-122, 38-404, 38-1209, 47-315(5)(e), 47-316, 47-710, 47-1506(g), 47-1508(f), 47-1316, 47-1803, 58-104, 58-105, 58-127, 58-304, 58-601, 58-603, and 58-1307, Idaho Code, are part of the agency's 2020 budget that relies upon the existence of these fees or charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these temporary rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget.

The following is a specific description of the fees or charges:

- 20.02.14 – Stumpage payments and associated bonding for removal of state timber from endowment land pursuant to timber sales.
- 20.03.01 – Application fee, amendment fee, assignment fee, and inspection fee for all dredge and placer permits in the state of Idaho.
- 20.03.02 – Application fee for permanent closure plans and assignment fee for reclamation plans and permanent closure plans.
- 20.03.03 – Annual payment for Reclamation Fund participation.
- 20.03.04 – Application fees for encroachment permits and deposits toward the cost of newspaper publication.
- 20.03.05 – Fees for applications, advertising applications, exploration locations, and approval of assignments for riverbed mineral leasing.
- 20.03.08 – Application fee, easement consideration fee, appraisal costs, and assignment fee for easements on state-owned lands.
- 20.03.09 – Administrative fee, appraisal costs, and assignment fee for easements on state-owned submerged lands and formerly submerged lands.
- 20.03.13 – Annual rental payment paid to the endowment for which the property is held.
- 20.03.14 – Lease application fee, full lease assignment fee, partial lease assignment fee, mortgage agreement fee, sublease fee, late rental payment fee, minimum lease fee, and lease payment extension request fee on state endowment trust lands.
- 20.03.15 – Application fee, assignment fee, and late payment fee for geothermal leases on state-owned lands.
- 20.03.16 – Exploration location permit fee, nomination fee, and processing fee for oil and gas leases on endowment lands.
- 20.03.17 – Application fee, rental rate, and assignment fee for leases on state-owned submerged lands and formerly submerged lands.
- 20.04.02 – Fee imposed upon the harvest and sale of forest products to establish hazard management performance bonds for the abatement of fire hazard created by a timber harvest operation, and fees imposed upon contractors for transferring fire suppression cost liability back to the State.
- 20.06.01 – Scaling assessment fee paid to a dedicated scaling account for all scaled timber harvested within the state of Idaho; administrative fees for registration, renewal, and transfer of log brands; fees for testing and issuance of a temporary scaling permit, specialty scaling license, and standard scaling license; fee to renew a specialty or standard scaling license; and fee for a requested check scale involving a scaling dispute.
- 20.07.02 – Bonding for oil and gas activities in Idaho and application fees for seismic operations; permit to drill, deepen or plug back; multiple zone completions; well treatment; pits and directional deviated wells.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Amy Johnson at (208) 334-0255 or rulemaking@idl.idaho.gov.

DATED this 21st day of February, 2020.

Dustin Miller, Director
Idaho Department of Lands
300 N. 6th St, Suite 103
P.O. Box 83720

Boise, Idaho 83720-0050
Phone: (208) 334-0242
Fax: (208) 334-3698
rulemaking@idl.idaho.gov

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

DOCKET NO. 20-0000-2000F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULES

EFFECTIVE DATE: These rules have been adopted by the agency, the Idaho State Board of Land Commissioners, the Idaho Oil and Gas Conservation Commission (as to IDAPA 20.07.02), and the Idaho Board of Scaling Practices (as to IDAPA 20.06.01), and are now pending review by the 2021 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, these pending rules will not become final and effective until they have been approved by concurrent resolution of the legislature because of the fee being imposed or increased through these rulemakings. The pending fee rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to:

- Sections 38-132 and 38-402, Idaho Code;
- Title 38, Chapter 12, including Section 38-1208, Idaho Code;
- Title 47, Chapters 3, 7, 8, 13, 15, 16 and 18, including Sections 47-314(8), 47-315(8), 47-328(1), 47-710, 47-714, and 47-1316, Idaho Code;
- Title 58, Chapters 1, 3, 6, 12 and 13, including Sections 58-104, 58-105, 58-127, and 58-304 through 58-312, Idaho Code;
- Title 67, Chapter 52, Idaho Code;
- Article IX, Sections 7 and 8 of the Idaho Constitution; and
- The Equal Footing Doctrine (Idaho Admission Act of July 3, 1890, 26 Stat. 215, Chapter 656).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rules and a statement of any change between the text of the proposed fee rules and the text of the pending fee rules with an explanation of the reasons for the change.

These pending fee rules adopt and re-publish the following existing rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 20, Rules of the Idaho Department of Lands:

IDAPA 20

- 20.02.14, *Rules for Selling Forest Products on State-Owned Endowment Lands;*
- 20.03.01, *Rules Governing Dredge and Placer Mining Operations in Idaho;*
- 20.03.02, *Rules Governing Mined Land Reclamation* (as noted below);
- 20.03.03, *Rules Governing Administration of the Reclamation Fund;*
- 20.03.04, *Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho;*
- 20.03.05, *Riverbed Mineral Leasing in Idaho;*
- 20.03.08, *Easements on State-Owned Lands;*
- 20.03.09, *Easements on State-Owned Submerged Lands and Formerly Submerged Lands;*
- 20.03.13, *Administration of Cottage Site Leases on State Lands;*
- 20.03.14, *Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases;*
- 20.03.15, *Rules Governing Geothermal Leasing on Idaho State Lands;*
- 20.03.16, *Rules Governing Oil and Gas Leasing on Idaho State Lands;*
- 20.03.17, *Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands;*
- 20.04.02, *Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws;*

The Idaho Board of Scaling Practices adopts the following pending fee rule under IDAPA 20.06:

- 20.06.01, *Rules of the Idaho Board of Scaling Practices*

The Oil and Gas Conservation Commission adopts the following pending fee rule under IDAPA 20.07:

- 20.07.02, *Rules Governing Conservation of Oil and Natural Gas in the State of Idaho*

These pending fee rules adopt and publish changes to IDAPA 20.03.02, Rules Governing Mined Land Reclamation. The previously approved and codified chapter of IDAPA 20.03.02 has been amended through the negotiated rulemaking process to incorporate changes required by the passing of HB141 during the 2019 legislative session. Following are the changes to the previously codified rule: including surface impacts of underground mines, setting fees for reclamation plans, incorporating water treatment and post-closure activities in reclamation plans as

needed, requiring that all reclamation tasks in a plan be completed and covered by financial assurance, estimating actual cost of reclamation and post-closure activities, expanding the types of financial assurance, and reviewing every plan at least once every five years. Also, compliance with [Executive Orders 2019-02](#) and [2020-01](#) required additional changes, and rulemaking by the Department of Environmental Quality on the Ore Processing by Cyanidation Rules (IDAPA 58.01.13) required parallel changes to IDAPA 20.03.02.

The original text of the proposed rules was published in the September 16, 2020 Idaho Administrative Bulletin (Special Edition), [Vol. 20-9SE, pages 985-1192](#). The text of the pending rule for IDAPA 20.03.02, Rules Governing Mined Land Reclamation, has been amended in accordance with Section 67-5227, Idaho Code; changes were made to the proposed rule in order to provide more clarity, further implement [Executive Order 2020-01](#), correct errors, respond to comments, and ensure continuity with IDAPA 58.01.13. This pending rule is being adopted to fully implement the changes required by HB141. These rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho, to give mine operators in Idaho more choices in providing financial assurance, and to update Idaho's mining regulations.

FEE SUMMARY: Following is the fee summary for IDAPA 20.03.02, Rules Governing Mined Land Reclamation:

HB 141 passed during the 2019 legislative session and authorized application fees for reclamation plans. Fees were implemented through a temporary rule prior to August 1, 2019 as required by HB 141. The temporary rule was extended to allow time for more negotiation toward a proposed rule. The base fees in the 2019 temporary rule have not changed, but the pending rule allows additional application fees to be charged if an application processed under Section 069 of the rules is incomplete and increases the length of the review past 20 hours of staff time. For applications processed under Section 070 of the rules, a cost recovery agreement may be entered into instead of submitting the base application fee. The proposed fees reflect cost recovery for IDL administrative costs associated with the review and approval of new plans and amended existing plans that are reviewed within the required five-year period. The proposed fees align with fees charged by other mineral-producing states in the western United States for reclamation plan review, approval, and amendments. The fees are estimated to generate annual revenue of approximately \$27,000 and will be placed into a dedicated account authorized under Idaho Code § 47-1513(f)(1). These funds are expected to offset additional IDL expenses anticipated with implementation of the five-year plan review process and increase in plan inspections now required under Idaho Code § 47-15.

For the following rule chapters, this rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature.

The following is a specific description of the fees or charges:

- 20.02.14 – Stumpage payments and associated bonding for removal of state timber from endowment land pursuant to timber sales. This charge is being imposed pursuant to Sections 58-104, 58-105 and 58-127, Idaho Code.
- 20.03.01 – Application fee, amendment fee, assignment fee, and inspection fee for all dredge and placer permits in the state of Idaho. This fee is being imposed pursuant to Sections 47-1316 and 47-1317, Idaho Code.
- 20.03.03 – Annual payment for Reclamation Fund participation. This charge is being imposed pursuant to Section 47-1803, Idaho Code.
- 20.03.04 – Application fees for encroachment permits and assignments and deposits toward the cost of newspaper publication. This fee is being imposed pursuant to Sections 58-127 and 58-1307, Idaho Code.
- 20.03.05 – Fees for applications, advertising applications, and approval of assignments for riverbed mineral leases and exploration locations. This fee is being imposed pursuant to Section 47-710, Idaho Code.
- 20.03.08 – Application fee, easement consideration fee, appraisal costs, and assignment fee for easements on state-owned lands. This fee is being imposed pursuant to Sections 58-127, 58-601, and 58-603, Idaho Code.
- 20.03.09 – Administrative fee, appraisal costs, and assignment fee for easements on state-owned submerged lands and formerly submerged lands. This fee is being imposed pursuant to Sections 58-104, 58-127 and 58-603, Idaho Code.
- 20.03.13 – Annual rental payment paid to the endowment for which the property is held. This charge is being imposed pursuant to Section 58-304, Idaho Code.

- 20.03.14 – Lease application fee, full lease assignment fee, partial lease assignment fee, mortgage agreement fee, sublease fee, rental payment, late rental payment fee, minimum lease fee, and lease payment extension request fee on state endowment trust lands. This fee or charge is being imposed pursuant to Section 58-304, Idaho Code.
- 20.03.15 – Application fee, assignment fee, late payment fee, royalty payments, and annual rental payment for geothermal leases on state-owned lands. This fee or charge is being imposed pursuant to Sections 47-1605 and 58-127, Idaho Code.
- 20.03.16 – Exploration permit fee, nomination fee, processing fee, royalty payments, and annual rental payment for oil and gas leases on endowment lands. This fee or charge is being imposed pursuant to Sections 47-805 and 58-127, Idaho Code.
- 20.03.17 – Application fee, rental rate, and assignment fee for leases on state-owned submerged lands and formerly submerged lands. This fee is being imposed pursuant to Sections 58-104, 58-127 and 58-304, Idaho Code.
- 20.04.02 – Fee imposed upon the harvest and sale of forest products to establish hazard management performance bonds for the abatement of fire hazard created by a timber harvest operation, and fees imposed upon contractors for transferring fire suppression cost liability back to the State. This fee or charge is being imposed pursuant to Sections 38-122 and 38-404, Idaho Code.
- 20.06.01 – Scaling assessment fee paid to a dedicated scaling account for all scaled timber harvested within the state of Idaho; administrative fees for registration, renewal, and transfer of log brands; fees for testing and issuance of a temporary scaling permit, specialty scaling license, and standard scaling license; fee to renew a specialty or standard scaling license; and fee for a requested check scale involving a scaling dispute. This fee is being imposed pursuant to Section 38-1209, Idaho Code.
- 20.07.02 – Bonding for oil and gas activities in Idaho and application fees for seismic operations; permit to drill, deepen or plug back; multiple zone completions; well treatment; pits and directional deviated wells. This fee or charge is being imposed pursuant to Sections 47-315(5)(e) and 47-316, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the fees charged under IDAPA 20.03.02 are expected to cover the additional costs imposed by HB141, and none of the other rule chapters have changed their fees.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Scott Phillips at (208) 334-0294.

Dated this 18th day of November, 2020.

Dustin Miller, Director
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IDAHO OIL AND GAS CONSERVATION COMMISSION
February 24, 2021
Regular Agenda

SUBJECT

Adoption of Temporary Rule for IDAPA 20.07.02 – *Rules Governing Conservation of Oil and Natural Gas in the State of Idaho*

BACKGROUND

The Idaho Legislature adjourned the 2020 legislative session without reauthorizing all existing administrative fee rules. On February 18, 2020, the Oil and Gas Conservation Commission (Commission) approved the reauthorization of IDAPA 20.07.02, which became effective as a temporary rule on March 20, 2020. However, the temporary rule will continue in effect only to the end of the 2021 legislative session.

On October 20, 2020, the Commission adopted the proposed rule for IDAPA 20.07.02, without amendments, as a pending rule. The rule will become final if approved by the 2021 Idaho Legislature.

To ensure the continuity of administrative fee rules following the adjournment of the 2021 legislative session, all agencies are required to submit an omnibus *Notice of Adoption of Temporary Rule* to the Division of Financial Management (DFM) by March 4, 2021 (Attachment 1).

DISCUSSION

The Idaho Department of Lands (Department) is seeking approval from the Commission to adopt IDAPA 20.07.02 as a temporary rule that is conditional and will become effective only if the rules are not otherwise approved or rejected by the Idaho Legislature and/or not extended pursuant to the Idaho Administrative Procedure Act. The Department has not made any changes to the rule that was approved by the Commission on February 18, 2020.

The draft notice (Attachment 2) lists previously approved fee rules under IDAPA 20, rules of the Idaho Department of Lands, including IDAPA 20.07.02 – *Rules Governing Conservation of Oil and Natural Gas in the State of Idaho*. These rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens.

If approved by the Commission and other approving authorities, the Department will submit the notice of adoption of temporary rule to DFM.

RECOMMENDATION

Adopt as a temporary rule IDAPA 20.07.02 *Rules Governing Conservation of Oil and Natural Gas in the State of Idaho* that was adopted by the Commission in 2020 and submitted to the 2021 Legislature, with this conditional approval only effective if the rules are not otherwise approved or extended, and authorize the Department to submit a Notice of Adoption of Temporary Rule consistent with that adoption.

COMMISSION ACTION

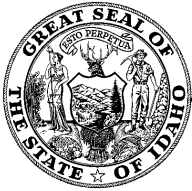
A motion was made by Commissioner Classen to accept the recommendation as read by Secretary Thomas, pertaining to the approval of the 20.07.02 *Rules Governing the Conservation of Oil and Natural Gas*. Vice Chairman Shigeta seconded the motion. The motion carried on a vote of 3-0.

ATTACHMENTS

1. February 4, 2021 Memo from DFM: Preparing Administrative Fee Rules for Post-*Sine Die*
2. Notice of Omnibus Rulemaking – Adoption of Temporary Fee Rules



IDAHO OIL & GAS
CONSERVATION COMMISSION



State of Idaho
DIVISION OF FINANCIAL MANAGEMENT
Executive Office of the Governor

BRAD LITTLE
Governor

ALEX J. ADAMS
Administrator

May 20, 2021

MEMORANDUM

**TO: Executive Branch Agency/Department Heads
Rules Review Officers**

FROM: Alex J. Adams 

SUBJECT: Current Status of Administrative Rules and What Agencies Need to Do

As you all know by now, the Senate adjourned *sine die* on May 12th and the House recessed subject to the call of the Speaker, no later than December 31st.

The Attorney General's office noted that this scenario is unique and without precedent in Idaho. This action places the state's administrative rules in a precarious state.

Naturally, many of you have reached out with questions about the current status of administrative rules, and this memo intends to summarize the FAQs and the action agencies need to take.

1. Have the rule changes we presented to the Legislature taken effect?

No, the rule changes presented to the 2021 legislature have not taken effect. Rule changes would traditionally take effect upon *sine die* (if properly acted on by the legislature), which could be as late as December 31st.

2. Are our administrative rules still in effect?

Yes, all *existing* state administrative rules remain in full force and effect as of today.

- Existing non-fee rules will expire on June 30th due to legislative inaction.
- All current temporary rules (which includes all existing fee rules) will expire upon *sine die*, which could be as late as December 31st.

Thus, while all administrative rules continue in full force and effect today, this starts to change on June 30th, first for the non-fee rules. As a result, executive administrative action is needed to ensure existing rules remain in effect.

Rest assured, Governor Little is committed to ensuring continuity of the services citizens expect. To minimize confusion and guard against the uncertainty of a future *sine die* date that could provide some major practical impediments to re-promulgation of rules at the end of the year, here's the plan:

- Agencies will rescind all current temporary state administrative rules, including fee chapters presented to the 2021 legislature, effective July 1, 2021.
- We will then republish all necessary rules with an effective date of July 1, 2021 with the changes presented to the 2021 legislature. This will make all changes in effect as of July 1 and ensure the continuity of all state administrative rules through the end of the 2022 legislature.

- A special bulletin will publish on July 21, 2021, that will include each of these temporary rules with an effective date of July 1st.

3. What action does our agency need to take to ensure the continuity of our rules?

Luckily, agencies have already taken action to prepare for this event (see DFM memos from February 4 and April 27). Here's the next steps:

- You will receive a proof of your administrative rules on or around **June 10th**. The proof will be based on the feedback you submitted to DFM pursuant to the prior memos. The proof will be structured to carry out the aforementioned plan of rescinding current rules and replacing with the new temporary rules.
- You will need to review the proof and apprise DFM of any necessary changes. Please work closely with your legal counsel if your agency/board/commission needs to take formal action on the proof. In discussing this with your counsel, please note if your previous motion was for the temporary rule to take effect on *sine die* or July 1. If the former, additional action may be necessary. A sample motion you may make is attached as **Appendix A**.
- All proofs must be returned to DFM no later than COB on **June 22nd**. If your legal counsel determines that board/commission approval is necessary, please proactively schedule your public meeting for the week of June 14th. Given the volume of rules DFM is dealing with, no exceptions will be made to the June 22nd deadline. Any response not received by this date will be presumed to mean the agency is letting the rule expire as of June 30th.

IDAHO OIL & GAS
CONSERVATION COMMISSION

Appendix A. Sample Motion.

“Pursuant to Section 67-5226, Idaho Code, the Governor has found that temporary adoption of this rule is appropriate to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens.

These rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws.

The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare, of the citizens of Idaho and deprive them of the benefit intended by these rules.

Therefore, we are adopting this temporary rule to be effective upon July 1, 2021. We are also rescinding our existing temporary rule with an effective date of July 1, 2021.”



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