

TITLE 47  
MINES AND MINING

CHAPTER 15  
MINED LAND RECLAMATION

47-1501. PURPOSE OF CHAPTER. It is the purpose of this chapter to provide for the protection of the public health, safety and welfare through measures to reclaim the surface of all the lands within the state disturbed by exploration and surface and underground mining operations and measures to assure the proper closure of cyanidation facilities and thereby conserve natural resources, aid in the protection of wildlife, domestic animals, and aquatic resources, and reduce soil erosion.

[47-1501, added 1971, ch. 206, sec. 1, p. 898; am. 1973, ch. 180, sec. 1, p. 415; am. 2005, ch. 167, sec. 3, p. 512; am. 2019, ch. 226, sec. 2, p. 694.]

47-1502. SHORT TITLE. This act shall be known and may be cited as the "Idaho mined land reclamation act." The reclamation provisions of this act shall not apply to mining operations regulated by the Idaho dredge and placer mining protection act, nor shall such provisions apply to any workings at an underground mine below the surface.

[47-1502, added 1971, ch. 206, sec. 2, p. 898; am. 2005, ch. 167, sec. 4, p. 512; am. 2019, ch. 226, sec. 3, p. 694.]

47-1503. DEFINITIONS. Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

(1) "Board" means the state board of land commissioners or such department, commission, or agency as may lawfully succeed to the powers and duties of such board.

(2) "Cyanidation" means the method of extracting target precious metals from ores by treatment with cyanide solution, which is the primary leaching agent for the extraction.

(3) "Cyanidation facility" means that portion of a new ore processing facility, or a material modification or a material expansion of that portion of an existing ore processing facility, that utilizes cyanidation and is intended to contain, treat, or dispose of cyanide-containing materials including spent ore, tailings, and process water.

(4) "Director" means the head of the department of lands or such officer as may lawfully succeed to the powers and duties of said director.

(5) "Affected land" means the land area included in overburden disposal areas, mined areas, mineral stockpiles, roads, tailings ponds and other areas disturbed on the surface of mining operations.

(6) "Mineral" means coal, clay, stone, sand, gravel, metalliferous and nonmetalliferous type of ores, and any other similar solid material or substance of commercial value to be excavated from natural deposits on or in the earth.

(7) "Mining operations" means the activities performed on the surface of a surface or underground mine in the extraction of minerals from the ground, including the excavating of pits, removal of minerals, disposal of overburden, and the construction of haulage roads, exclusive of exploration operations, except that any exploration operations which, exclusive of

exploration roads, (a) result during a period of twelve (12) consecutive months in more than five (5) contiguous acres of newly affected land, or (b) which, exclusive of exploration roads, result during a period of twelve (12) consecutive months in newly affected land consisting of more than ten (10) noncontiguous acres, if such affected land constitutes more than fifteen percent (15%) of the total area of any circular tract that includes such affected land, shall be deemed to be a surface mining operation for the purposes of this chapter.

(8) "Exploration operations" means activities performed on the surface of lands to locate mineral bodies and to determine the mineability and merchantability thereof.

(9) "Surface mine" means an area where minerals are extracted by removing the overburden lying above and adjacent to natural deposits thereof and mining directly from the natural deposits thereby exposed.

(10) "Underground mine" means an area where minerals are extracted from beneath the surface of the ground by means of an adit, shaft, tunnel, decline, portal, bore hole, drill hole for solution mining, or such other means of access beneath the surface of the ground, other than a pit.

(11) "Mined area" means surface of land from which overburden, waste rock, or minerals have been removed other than by drilling of exploration drill holes.

(12) "Overburden" or "waste rock" means material extracted by an operator that is not a part of the material ultimately removed from a surface mine or underground mine and marketed by an operator, exclusive of mineral stockpiles.

(13) "Overburden disposal area" means land surface upon which overburden or waste rock is placed or planned to be placed.

(14) "Exploration drill holes" means holes drilled from the surface to locate mineral bodies and to determine the mineability and merchantability thereof.

(15) "Exploration roads" means roads constructed to locate mineral bodies and to determine the mineability and merchantability thereof.

(16) "Exploration trenches" means trenches constructed to locate mineral bodies and to determine the mineability and merchantability thereof.

(17) "Peak" means a projecting point of overburden.

(18) "Significant change" means, for an underground mine, a fifty percent (50%) increase in the areal extent of the disturbed affected land.

(19) "Mine panel" means that portion of a mine designated by an operator as a panel of a surface mine or the surface effects of an underground mine on the map submitted pursuant to section [47-1506](#), Idaho Code.

(20) "Mineral stockpile" means minerals extracted during surface mining operations and retained at the surface mine for future rather than immediate use.

(21) "Permanent closure plan" means a description of the procedures, methods, and schedule that will be implemented to meet the intent and purposes of this chapter in treating and disposing of cyanide-containing materials including spent ore, tailings, and process water and in controlling and monitoring discharges and potential discharges for a reasonable period of time based on site-specific conditions.

(22) "Pit" means an excavation created by the extraction of minerals or overburden at a surface mine.

(23) "Ridge" means a lengthened elevation of overburden.

(24) "Road" means a way constructed on a surface mine for the passage of vehicles, including the bed, slopes and shoulders thereof.

(25) "Operator" means any person or persons, any partnership, limited partnership, corporation, or limited liability company, or any association of persons, either natural or artificial, including, but not limited to, every public or governmental agency engaged in mining operations or exploration operations or in operating a cyanidation facility, whether individually, jointly, or through subsidiaries, agents, employees, or contractors, and shall mean every governmental agency owning or controlling the use of any surface mine when the mineral extracted is to be used by or for the benefit of such agency. It shall not include any such governmental agency with respect to those mining or exploration operations as to which it grants mineral leases or prospecting permits or similar contracts, but nothing herein shall relieve the operator acting pursuant to a mineral lease, prospecting permit or similar contract from the terms of this chapter.

(26) "Hearing officer" means that person selected by the board to hear proceedings under section [47-1513](#), Idaho Code.

(27) "Final order of the board" means a written notice of rejection, the order of a hearing officer at the conclusion of a hearing, or any other order of the board where additional administrative remedies are not available.

(28) "Tailings pond" means an area on the surface of a mining operation enclosed by a man-made or natural dam onto which has been discharged the waste material resulting from the primary concentration of minerals in ore excavated from a surface or underground mine.

(29) "Financial assurance" means monetary assurances in such form and amount as are necessary for the board or a third party to perform the reclamation activities required in this chapter.

(30) "Post-closure" means a description of the procedures, methods, and schedule for monitoring, care and maintenance, and water management that will be implemented on a mine panel after cessation of mining operations for a period not to exceed thirty (30) years unless the board determines a longer period is necessary.

[47-1503, added 1971, ch. 206, sec. 3, p. 898; am. 1973, ch. 180, sec. 2, p. 415; am. 1974, ch. 17, sec. 35, p. 308; am. 2005, ch. 167, sec. 5, p. 512; am. 2019, ch. 226, sec. 4, p. 694.]

47-1504. BOARD OF LAND COMMISSIONERS -- RESPONSIBILITY. The state board of land commissioners is charged with the responsibility of administering this act in accordance with the purpose of the act and the intent of the legislature. The director of the department of lands shall, upon authorization of the board, exercise the powers and discharge the duties vested in the board by this act.

[47-1504, added 1971, ch. 206, sec. 4, p. 898; am. 1974, ch. 17, sec. 36, p. 308.]

47-1505. DUTIES AND POWERS OF BOARD. In addition to the other duties and powers of the board prescribed by law, the board is granted and shall be entitled to exercise the following authority and powers and perform the following duties:

(1) To administer and enforce the provisions of this chapter and the rules and orders promulgated thereunder as provided in this chapter.

(2) To conduct and promote the coordination and acceleration of research, studies, surveys, experiments, demonstrations and training in carrying out the provisions of this chapter. In carrying out the activities authorized by this section, the board may enter into contracts with and make grants to institutions, agencies, organizations and individuals and shall collect and make available any information obtained therefrom.

(3) To adopt and promulgate reasonable rules respecting the administration of this chapter and such rules as may be necessary to carry out the intent and purposes of this chapter, provided that no rules shall be adopted that require reclamation activities in addition to those set forth in this chapter. All such rules shall be adopted in accordance with and subject to the provisions of [chapter 52, title 67](#), Idaho Code.

(4) To enter upon affected lands at all reasonable times, for the purpose of inspection, to determine whether the provisions of this chapter have been complied with. Such inspections shall be conducted in the presence of the operator or his duly authorized employees or representatives, and the operator shall make such persons available for the purpose of inspections.

(5) To reclaim affected land with respect to which financial assurance has been forfeited and, in the board's discretion, with the permission of the landowner, to reclaim such other land that becomes affected land.

(6) To complete closure activities with respect to a cyanidation facility for which a permanent closure financial assurance has been forfeited.

(7) (a) Upon receipt of a reclamation plan or permanent closure plan or amended or supplemental plan required by this chapter, the director shall notify the cities and counties in which the mining operation or cyanidation facility is proposed. The notice shall include the name and address of the operator and shall describe the procedure and the schedule by which the plan may be approved or denied. This notification requirement shall not apply to exploration operations.

(b) Cities and counties may review the nonconfidential portions of the plan at the department's office and may provide comments to the director concerning the plan. Nothing in this section shall extend the time limit for the board to deliver to the operator a notice of rejection or approval of the plan or affect the confidentiality provisions of section [47-1515](#), Idaho Code.

(c) No city or county shall enact or adopt any ordinance, rule or resolution to regulate exploration or mining operations or a permanent closure plan in this state that conflicts with any provision of this chapter or the rules promulgated thereunder. This subpart shall not affect the planning and zoning authorities available to cities and counties pursuant to [chapter 65, title 67](#), Idaho Code.

[47-1505, added 1971, ch. 206, sec. 5, p. 898; am. 1988, ch. 223, sec. 1, p. 425; am. 1993, ch. 216, sec. 46, p. 629; am. 1995, ch. 364, sec. 1, p. 1275; am. 2005, ch. 167, sec. 6, p. 514; am. 2019, ch. 226, sec. 5, p. 696.]

47-1506. OPERATOR -- DUTIES PRIOR TO OPERATION -- SUBMISSION OF MAPS AND PLANS. (a) Any operator desiring to conduct mining operations within the state of Idaho for the purpose of immediate or ultimate sale of the minerals in either the natural or processed state shall submit to the board prior to commencing such mining operations a reclamation plan that contains the following:

(1) A map of the mine panel on which said operator desires to conduct mining operations, which sets forth with respect to said panel the following:

(i) The location of existing roads and anticipated access and main haulage roads planned to be constructed in conducting the mining operations.

(ii) The approximate boundaries of the lands to be utilized in the process of mining operations.

(iii) The approximate location and, if known, the names of all streams, creeks, or bodies of water within the area where mining operations shall take place.

(iv) The name and address of the person to whom notices, orders, and other information required to be given to the operator pursuant to this chapter may be sent.

(v) The drainage adjacent to the area where the surface is being utilized by mining operations.

(vi) The approximate boundaries of the lands that will become affected lands as a result of mining operations during the year immediately following the date that a reclamation plan is approved as to said panel, together with the number of acres included within said boundaries.

(vii) A description of foreseeable water quality impacts from mining operations and proposed water management activities to comply with water quality requirements.

(viii) A description of post-closure activities.

(2) Diagrams showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds on said panel.

(3) A description of the action which said operator intends to take to comply with the provisions of this chapter as to the mining operations conducted on such mine panel.

(b) (1) Any operator who is not required to submit an operating plan for a mining operation to an entity of the federal government shall submit to the board, as part of the reclamation plan, an operating plan with regards to that mining operation. The operating plan shall include:

(i) Maps showing the location of existing roads and anticipated access and main haulage roads planned to be constructed for mining operations.

(ii) The boundaries and acreage of the lands to be utilized in the process of mining operations.

(iii) Maps showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds for the mining operations.

(iv) The location and, if known, the names of all streams, creeks, or bodies of water within the area where mining operations shall take place.

(v) The drainage adjacent to the area where the surface is being utilized by mining operations.

(vi) The approximate boundaries and acreage of the lands that will become affected during the first year of construction of mining operations.

(2) The board shall promulgate rules or guidelines to allow the content of a nonfederal operating plan to be determined based upon the type and size of the mining operation.

(c) No operator who is required to submit an operating plan for a mining operation to an entity of the federal government shall be required to submit an operating plan to the board. This provision shall apply to all lands, regardless of surface or mineral ownership, covered by the operating plan submitted to the entity of the federal government.

(d) No operator shall commence mining operations on any mine panel without first having a reclamation plan approved by the state board of land commissioners.

(e) Any operator desiring to conduct exploration operations within the state of Idaho using motorized earth-moving equipment in order to locate minerals for immediate or ultimate sale in either the natural or the processed state shall notify the board in writing prior to or as soon after beginning exploration operations as possible and in any event within seven (7) days after beginning exploration operations. The notice shall include the following:

- (1) The name and address of the operator;
- (2) The location of the operation and the starting date and estimated completion date;
- (3) The anticipated size of the operation, and the general method of operation.

The notice shall be subject to disclosure according to [chapter 1, title 74](#), Idaho Code.

(f) Any operator desiring to operate a cyanidation facility within the state of Idaho shall submit to the board prior to the operation of such a facility a permanent closure plan that contains the following:

- (1) The name and address of the operator;
- (2) The location of the operation;
- (3) The objectives, methods and procedures the operator will use to attain permanent closure;
- (4) An estimate of the cost of attaining permanent closure as well as an estimate of the costs to achieve critical phases of the closure plan;
- (5) Any other information specified in the rules adopted to carry out the intent and purposes of this chapter; and
- (6) An operator may incorporate a description of post-closure activities in a permanent closure plan in lieu of inclusion in a reclamation plan.

(g) The board may require a reasonable fee for reviewing and approving a permanent closure plan or reclamation plan. The fee may include the reasonable cost to employ a qualified independent party, acceptable to the operator and the board, to verify the accuracy of the cost estimate required in subsection (f) (4) of this section and section [47-1512](#) (c), Idaho Code.

(h) The board shall coordinate its review of activities in a reclamation plan, operating plan, and permanent closure plan under statutory responsibility of the department of environmental quality with that department, but that coordination shall not extend the time limit in which the board must act on a plan submitted.

(i) No operator shall commence operation of a cyanidation facility without first having a permanent closure plan approved by the board.

[47-1506, added 1971, ch. 206, sec. 6, p. 898; am. 1973, ch. 180, sec. 3, p. 415; am. 1990, ch. 213, sec. 65, p. 534; am. 1997, ch. 269, sec. 1, p. 772; am. 2005, ch. 167, sec. 7, p. 515; am. 2006, ch. 16, sec. 5, p. 48; am. 2015, ch. 141, sec. 122, p. 471; am. 2018, ch. 76, sec. 2, p. 171; am. 2019, ch. 226, sec. 6, p. 697.]

47-1507. PLAN -- APPROVAL OR REJECTION BY BOARD -- HEARING. (a) Upon determination by the board that a reclamation or permanent closure plan or any amended plan submitted by an operator meets the requirements of this chapter, the board shall deliver to the operator, in writing, a notice of approval of such plan, and thereafter said plan shall govern and determine the nature and extent of the obligations of the operator for compliance with this chapter, with respect to the mine panel or cyanidation facility for which the plan was submitted.

(b) If the board determines that a reclamation or permanent closure plan or amended plan fails to fulfill the requirements of this chapter, it shall deliver to the operator, in writing, a notice of rejection of the plan and shall set forth in said notice of rejection the reasons for such rejection, the factual findings upon which such rejection is based, the manner in which the plan fails to fulfill said requirements, and the requirements necessary to comply with this chapter. Upon receipt of said notice of rejection, said operator may submit amended plans. Upon further determination by the board that the amended plan still does not fulfill the requirements of said section, it shall deliver to the operator, in writing, a notice of rejection of the amended plan in the same form as set out in this section.

(c) Weather permitting, the board shall deliver to the operator within sixty (60) days after the receipt of any reclamation plan or amended reclamation plan, or within one hundred eighty (180) days after the receipt of any permanent closure plan or amended permanent closure plan, the notice of rejection or notice of approval of said plan, as the case may be, provided, however, that if the board fails to deliver a notice of approval or notice of rejection within said time period, the plan submitted shall be deemed to comply with this chapter, and the operator may commence and conduct his mining operations on the mine panel or operate the cyanidation facility covered by such plan as if a notice of approval of said plan had been received from the board; provided, however, that if weather conditions prevent the board from inspecting the mine panel or cyanidation facility to obtain information needed to approve or reject a submitted plan, it may, in writing to the operator, extend the time not to exceed thirty (30) days after weather conditions permit such inspection.

(d) For the purpose of determining whether a proposed plan or amended or supplemental plan complies with the requirements of this chapter, the board may, in its discretion, call for a public hearing. The hearing shall be held under such rules as promulgated by the board. Any interested person may appear at the hearing and give testimony. At the discretion of the board, the director may conduct the hearing and transmit a summary thereof to the board. Any hearing held shall not extend the period of time limit in which the board must act on a plan submitted.

[47-1507, added 1971, ch. 206, sec. 7, p. 898; am. 1997, ch. 269, sec. 2, p. 774; am. 2005, ch. 167, sec. 8, p. 517; am. 2019, ch. 226, sec. 7, p. 699.]

47-1508. AMENDED PLAN -- SUPPLEMENTAL PLAN -- SUBMISSION. (a) In the event that a material change in circumstances arises that the operator, or the board, believes requires a change in an approved plan, including any amended plan, then the operator shall submit to the board a supplemental plan setting forth the proposed changes and the board shall likewise set forth its proposed changes and state the reasons therefor. Upon determination by the

board that a supplemental plan or any amended supplemental plan submitted by the operator meets the requirements of this chapter, it shall deliver to the operator, in writing, a notice of approval of said supplemental plan, and thereafter said supplemental plan shall govern and determine the nature and extent of the obligations of the operator for compliance with respect to the mine panel or cyanidation facility for which the plan was submitted.

(b) If the board determines that a supplemental plan fails to fulfill the requirements of this chapter, it shall deliver to the operator, in writing, a notice of rejection of the supplemental plan and shall set forth in said notice of rejection the manner in which said plan fails to fulfill said requirements and shall stipulate the corrective requirements necessary to comply with said sections. Upon receipt of said notice of rejection, the operator may submit amended supplemental plans. Upon further determination by the board that an amended supplemental plan does not fulfill the requirements of said sections, it shall deliver to the operator, in writing, a notice of rejection of amended supplemental plan and shall set forth in said notice of rejection the manner in which such amended supplemental plan fails to fulfill said requirements and shall stipulate the requirements necessary to comply with said sections.

(c) The board shall, weather permitting, deliver to the operator within sixty (60) days after the receipt of any supplemental reclamation plan or amended supplemental reclamation plan, or within one hundred eighty (180) days after the receipt of any supplemental permanent closure plan or amended supplemental permanent closure plan, the notice of rejection, setting forth in detail the reasons for such rejection and the factual findings upon which such rejection is based or notice of approval of said plan, as the case may be, provided, however, that if the board fails to deliver a notice of approval or notice of rejection within said time period, the plan submitted shall be deemed to comply with this chapter and the operator may commence and conduct or continue, as the case may be, his mining operations or operate the cyanidation facility as if a notice of approval of said plan had been received from the board. If weather conditions prevent the board from inspecting the mine panel or cyanidation facility to obtain information needed to approve or reject a submitted plan, it may, in writing to the operator, extend the time not to exceed thirty (30) days after weather conditions permit such inspection.

(d) If an operator determines that unforeseen events or unexpected conditions require immediate changes in or additions to an approved reclamation or permanent closure plan, the operator may continue operations in accordance with the procedures dictated by the changed conditions, pending submission and approval of a supplemental plan, even though such operations do not comply with the approved plan, provided, however, that nothing herein stated shall be construed to excuse the operator from complying with the reclamation requirements of sections [47-1509](#) and [47-1510](#), Idaho Code, or from the applicable closure requirements of a permit issued under section [39-118A](#), Idaho Code. Notice of such unforeseen events or unexpected conditions shall be given to the board within ten (10) days after discovery thereof, and a proposed supplemental plan shall be submitted within thirty (30) days after discovery thereof.

(e) At least once every five (5) years, the board shall review reclamation plans and revise if necessary to meet the requirements of sections [47-1506](#), [47-1509](#), [47-1510](#), and [47-1511](#), Idaho Code, when there is a material change in the reclamation plan. As part of this review, the board shall



revise the amount, terms, and conditions of any financial assurance when there is a material change in the reclamation plan or a material change in the estimated reasonable costs of reclamation determined pursuant to section [47-1512](#), Idaho Code. Any such revision shall apply only to the affected lands covered by the material change.

(f) For a permanent closure plan approved by the board after July 1, 2005, the board shall periodically review, and revise if necessary to meet the requirements of this chapter, the amount, terms, and conditions of any financial assurance when there is a material change in the permanent closure plan or a material change in the estimated reasonable costs of permanent closure determined pursuant to section [47-1512](#), Idaho Code. The board may require a fee sufficient to employ a qualified independent party, acceptable to the operator and the board, to verify any revised estimate of the reasonable costs of permanent closure.

(g) Amendments and revisions are subject to the fee requirements in section [47-1506](#)(g), Idaho Code.

(h) Any determination by the board under this section shall be considered a final order pursuant to section [47-1514](#), Idaho Code.

[47-1508, added 1971, ch. 206, sec. 8, p. 898; am. 1997, ch. 269, sec. 3, p. 775; am. 2005, ch. 167, sec. 9, p. 518; am. 2019, ch. 226, sec. 8, p. 700.]

47-1509. PROCEDURES IN RECLAMATION. (a) Except as otherwise provided in this act, every operator who conducts exploration or mining operations that disturb two (2) or more acres within the state of Idaho shall perform the following reclamation activities:

- (1) Ridges of overburden shall be leveled in such manner as to have a minimum width of ten (10) feet at the top.
- (2) Peaks of overburden shall be leveled in such a manner as to have a minimum width of fifteen (15) feet at the top.
- (3) Overburden piles shall be reasonably prepared to control erosion.
- (4) Manage water as necessary to meet the requirements authorized under [chapter 1, title 39](#), Idaho Code.
- (5) Roads that are abandoned shall be cross-ditched insofar as necessary to avoid erosion gullies.
- (6) Exploration drill holes shall be plugged or otherwise left so as to eliminate hazards to humans or animals.
- (7) Abandoned affected lands shall be topped to the extent that such overburden is reasonably available from the pit, with that type of overburden conducive to the control of erosion or the growth of the vegetation that the operator elects to plant thereon.
- (8) The operator shall conduct revegetation activities on the mined areas, overburden piles, and abandoned roads in accordance with the provisions of this act.
- (9) Tailings ponds shall be reasonably prepared in such a condition that they will not constitute a hazard to human or animal life.
- (10) Complete all other reclamation required in the approved reclamation plan.

(b) The board may request, in writing, that a given road or portion thereof not be cross-ditched or revegetated and, upon such request, the operator shall be excused from performing such activities as to such road or portion thereof.

(c) Every operator who conducts exploration or mining operations that disturb less than two (2) acres within the state of Idaho shall, wherever possible, contour the lands so disturbed to approximate the previous contour of the lands.

(d) The operator and board may agree, in writing, to do any act with respect to reclamation above and beyond the requirements herein set forth.

[47-1509, added 1971, ch. 206, sec. 9, p. 898; am. 1973, ch. 180, sec. 4, p. 415; am. 2016, ch. 22, sec. 1, p. 28; am. 2019, ch. 226, sec. 9, p. 701.]

47-1510. VEGETATION PLANTING. (a) Except as otherwise provided in this act, an operator shall plant, on affected lands, vegetation species that can be expected to result in vegetation comparable to the vegetation that was growing on the area occupied by the affected lands prior to the exploration and mining operations.

(b) No planting shall be required on any affected lands, or portions thereof, where planting would not be practicable or reasonable because the soil is composed of sand, gravel, shale, stone or other material to such an extent as to prohibit plant growth.

(c) No planting shall be required to be made with respect to any of the following:

(1) On any mined area or overburden pile proposed to be used in the mining operations for haulage roads, as long as such roads are not abandoned.

(2) On any mined area or overburden pile where lakes are formed by rainfall or drainage runoff from the adjoining lands.

(3) On any mineral stockpile.

(4) On any exploration trench that will become a part of any pit or overburden disposal area.

(5) On any road that the operator intends to use in his mining operations, as long as said road has not been abandoned.

[47-1510, added 1971, ch. 206, sec. 10, p. 898; am. 2019, ch. 226, sec. 10, p. 702.]

47-1511. RECLAMATION ACTIVITIES -- TIME LIMITATIONS. (a) All reclamation activities required to be conducted under this act shall be performed in a good and workmanlike manner, with all reasonable diligence, and as to a given exploration drill hole, road or trench, within one (1) year after abandonment thereof.

(b) The reclamation activity as to a given mine panel shall be commenced within one (1) year after mining operations have permanently ceased as to such mine panel, provided, however, that in the event that during the course of mining operations on a given mine panel, the operator permanently ceases disposing of overburden on a given overburden pile, or permanently ceases removing minerals from a given pit, or permanently ceases using a given road or other affected land, then the reclamation activities to be conducted hereunder as to such pit, road, overburden pile, or other affected land shall be commenced within one (1) year after such termination, despite the fact that all operations as to the mine panel, which includes such pit, road, overburden pile, or other affected land, have not permanently ceased. It shall be presumed that the operator has permanently ceased mining operations as to a given affected land if no substantial amount of overburden has been

placed on the overburden pile in question or if no minerals have been removed from the pit in question, as the case may be, for a period of three (3) years.

This presumption may be rebutted by evidencing, in writing, to the board what mining operations the operator has planned on the pit, road, overburden pile, or other affected land not used within a three (3) year period. Should the board determine that the operator, in good faith, intends to continue the mining operation within a reasonable period of time, it shall, in writing, so notify the operator. Should the board determine that the operation will not be continued within a reasonable period of time, the board shall proceed as though the mining operation has been abandoned.

[47-1511, added 1971, ch. 206, sec. 11, p. 898; am. 2019, ch. 226, sec. 11, p. 703.]

47-1512. FINANCIAL ASSURANCE -- REQUISITES. (a) Prior to conducting any mining operations on a mine panel covered by an approved reclamation plan or operating a cyanidation facility covered by an approved permanent closure plan, an operator shall submit to the board financial assurance meeting the requirements of this section.

(1) The initial reclamation financial assurance filed prior to conducting any mining operations on a mine panel shall be in an amount determined by the board to be the estimated reasonable costs of reclamation required in this chapter, in the event of failure to reclaim by an operator, of affected lands proposed to be mined during the next calendar year designated by the operator pursuant to section [47-1506](#) (a) (1) (vi), Idaho Code, and subsection (b) of this section.

(2) The initial permanent closure financial assurance filed prior to operating a cyanidation facility shall be in an amount determined by the board to be the estimated reasonable costs to complete the activities specified in the permanent closure plan required in this chapter, in the event of the failure of an operator to complete those activities. In setting such amount, the board shall avoid duplication with financial assurance deposited with other governmental agencies.

(3) The determination of the financial assurance amount shall constitute a final order subject to judicial review as set forth in subsection (a) of section [47-1514](#), Idaho Code. In lieu of any financial assurance required hereunder, the operator may deposit cash and governmental securities with the board, in an amount equal to that of the required financial assurance, on the conditions as prescribed in this section.

(b) Prior to the time that lands designated to become affected lands on a mine panel, in addition to those designated pursuant to section [47-1506](#) (a) (1) (vi), Idaho Code, become affected land, the operator shall submit to the board financial assurance meeting the requirements of section [47-1512](#) (c), Idaho Code, which shall be in the amount necessary to ensure the performance of the duties of the operator under this chapter as to such affected lands actually proposed to be mined within the next calendar year. If additional acreage is subsequently proposed to be mined by an operator, financial assurance shall be in an amount determined by the board to be the estimated reasonable costs of reclamation required by this chapter, in the event of failure to reclaim by an operator, of affected lands proposed to be mined during the next calendar year.

(c) For mining operations with affected land greater than five (5) acres, the financial assurance amount shall be based on the estimated reasonable costs of completing reclamation required in this chapter using

standard estimating techniques, including indirect costs, developed by the board. For all other mining operations, the financial assurance for reclamation submitted pursuant to this chapter shall not exceed fifteen thousand dollars (\$15,000) for any given acre of such affected land. The board may require financial assurance in excess of fifteen thousand dollars (\$15,000) for any given acre of affected land only when the following conditions have been met:

(1) The board has determined that such financial assurance is necessary to meet the requirements of sections [47-1506](#), [47-1509](#), [47-1510](#) and [47-1511](#), Idaho Code.

(2) The board has delivered to the operator, in writing, a notice setting forth the reasons it believes such financial assurance is necessary.

(3) The board has conducted a hearing where the operator is allowed to give testimony to the board concerning the amount of the proposed financial assurance. The hearing shall be held under such rules as promulgated by the board. This requirement for a hearing may be waived, in writing, by the operator. Any hearing held shall, at the discretion of the director, extend the time, up to thirty (30) days, in which the board must act on a plan submitted.

(d) For a cyanidation facility with affected land greater than five (5) acres, the financial assurance amount shall be based on the estimated reasonable costs to complete reclamation required under this chapter using standard estimating techniques, including indirect costs, developed by the board. For all other cyanidation facilities, the financial assurance submitted for permanent closure of a cyanidation facility pursuant to this chapter shall not exceed five million dollars (\$5,000,000). The board may require financial assurance in excess of five million dollars (\$5,000,000) for a cyanidation facility only when the following conditions have been met:

(1) The board has determined that such financial assurance is necessary to meet the requirements of this chapter.

(2) The board has delivered to the operator, in writing, a notice setting forth the reasons it believes such financial assurance is necessary.

(3) The board has conducted a hearing where the operator is allowed to give testimony to the board concerning the amount of the proposed financial assurance. The hearing shall be held under such rules as promulgated by the board. This requirement for a hearing may be waived, in writing, by the operator. Any hearing held shall, at the discretion of the director, extend the time, up to sixty (60) days, in which the board must act on the permanent closure plan submitted.

(e) Any financial assurance required under this chapter to be filed and maintained with the board shall be in such form as the board prescribes, payable to the state of Idaho, conditioned that the operator shall faithfully perform all requirements of this chapter and comply with all rules of the board in effect as of the date of approval of the plan in accordance with the provisions of this chapter. Further, any financial assurance provided to another governmental agency that also meets the requirements in this section shall be deemed to be sufficient for the purposes of this chapter.

(f) Financial assurance filed as prescribed in this section shall not be canceled, except after not less than ninety (90) days' notice to the board. Upon failure of the operator to make substitution of financial assurance prior to the effective date of cancellation of the financial

assurance or within thirty (30) days following notice of cancellation by the board, whichever is later, the board shall have the right to issue a cease and desist order and seek injunctive relief to stop the operator from conducting operations covered by such financial assurance until such substitution has been made.

(g) If the license to do business in this state of any surety, upon a bond filed with the board pursuant to this chapter, shall be suspended or revoked, the operator, within thirty (30) days after receiving notice thereof from the board, shall substitute for such surety alternative financial assurance in accordance with this section. Upon failure of the operator to make substitution of financial assurance, the board shall have the right to issue a cease and desist order and seek injunctive relief to stop the operator from conducting operations covered by such financial assurance until such substitution has been made.

(h) When an operator shall have completed all or a portion of reclamation requirements, or all or a portion of any post-closure activity, under the provisions of this chapter as to any portion of affected land or any post-closure activity, he may notify the board. Within thirty (30) days after the receipt of such notice, the board shall notify the operator as to whether or not the reclamation or post-closure activity performed meets the requirements of the reclamation plan pertaining to the land in question.

(1) Upon the determination by the board that the requirements of the reclamation plan in question have been substantially met as to said lands or such activity, the amount of financial assurance in effect as to such lands or such activity shall be reduced by an amount designated by the board to reflect the reclamation done.

(2) Upon a determination by the board that the requirements of the reclamation plan in question have not been substantially met as to said lands or such activity, it shall deliver to the operator, in writing, a notice of rejection of the request for financial assurance release and shall set forth in said notice the reasons for such rejection, the factual findings upon which such rejection is based, the manner in which the reclamation fails to fulfill the requirements of the reclamation plan, and the changes necessary to comply with the requirements of the reclamation plan.

(i) When an operator shall have completed an activity specified in an approved permanent closure plan, he may notify the board. Within thirty (30) days after the receipt of such notice, the board shall notify the operator as to whether or not the activity performed meets the requirements of the permanent closure plan. In determining whether or not an activity under the statutory responsibility of the department of environmental quality meets the requirements of the permanent closure plan, the board shall consult with that department.

(1) Upon the determination by the board that the activity meets the requirements of the permanent closure plan, the financial assurance for permanent closure shall be reduced by an amount designated by the board to reflect the activity completed.

(2) Upon a determination by the board that the requirements of the permanent closure plan in question have not been met as to said lands, it shall deliver to the operator, in writing, a notice of rejection of the request for financial assurance release and shall set forth in said notice the reasons for such rejection, the factual findings upon which such rejection is based, the manner in which the activity fails to

fulfill the requirements of the permanent closure plan, and the changes necessary to comply with the requirements of the permanent closure plan.

(j) An operator may withdraw any land previously designated as affected land within a mine panel, provided that it is not already affected land, and in such event, he shall notify the board, and the amount of the bond in effect as to the lands in that mine panel shall be reduced by an amount designated by the board as the amount which would have been necessary to reclaim such lands.

(k) Proof of financial assurance may be demonstrated by surety bond, corporate guarantee, letter of credit, certificate of deposit, trust fund, and any combination thereof or any other proof of financial assurance approved by the board.

(l) An operator may provide proof of financial assurance by use of a trust fund, provided the following conditions are met:

- (1) The trust fund is managed by a third-party trustee;
- (2) The trust fund names the state of Idaho as beneficiary; and
- (3) The trust is initially funded in an amount at least equal to:
  - (i) The financial assurance amount as estimated by this section;
  - (ii) A specified schedule of payments into the fund; or
  - (iii) A pro-rata amount if used with another financial assurance mechanism.

(4) The trustee shall invest the principal and income of the fund in accordance with general investment practices. Investments can include equities, bonds, and government securities.

(5) The operator enters into a memorandum of agreement with the board that identifies the trustee, a range of investments, initial funding, schedule of payments, and expected rate of return.

(6) The trust fund balance shall be reviewed by the board at a period not to exceed once every five (5) years and adjustments to the trust fund made to meet the conditions of the agreement and this chapter.

(m) Following the permanent cessation of a mining operation, the board may determine that a post-closure period of greater than thirty (30) years is necessary only when the following conditions have been met:

- (1) The board has determined that such longer post-closure period is necessary to meet the requirements of sections [47-1506](#), [47-1509](#), [47-1510](#), and [47-1511](#), Idaho Code;
- (2) The board has delivered to the operator, in writing, a notice setting forth the reasons it believes a longer post-closure period is necessary;
- (3) The board has conducted a hearing where the operator is allowed to give testimony concerning the length of the post-closure period. The hearing shall be held under such rules as promulgated by the board. The requirement for a hearing may be waived by the operator; and
- (4) Any decision by the board under this subsection shall be considered a final order pursuant to section [47-1514](#), Idaho Code.

(n) Any mining operation that is addressing water management, and any releases to the environment through a comprehensive environmental response, compensation and liability act (CERCLA) order, including any required financial assurance, shall not be required to submit financial assurance to the board for any activities covered by a CERCLA order.

[47-1512, added 1971, ch. 206, sec. 12, p. 898; am. 1980, ch. 206, sec. 1, p. 471; am. 1985, ch. 123, sec. 1, p. 304; am. 1988, ch. 223, sec.

2, p. 426; am. 1997, ch. 269, sec. 4, p. 776; am. 2005, ch. 167, sec. 10, p. 519.; am. 2016, ch. 22, sec. 2, p. 29; am. 2019, ch. 226, sec. 12, p. 703.]

47-1513. OPERATOR'S FAILURE TO COMPLY -- FORFEITURE OF FINANCIAL ASSURANCE -- PENALTIES -- RECLAMATION FUND -- CYANIDATION CLOSURE FUND. (a) Whenever the board determines that an operator has not complied with the provisions of this chapter, the board may notify the operator of such noncompliance and may, by private conference, conciliation, and persuasion, endeavor to remedy such violation. In the event of a violation referred to in subsections (d) and (e) of this section, the board may proceed without an administrative action, hearing or decision to exercise the remedies set forth in said subsections. Additionally, no administrative action, hearing or decision shall be required from the Idaho board of environmental quality prior to the board proceeding under subsections (d) and (e) of this section. In the event of the failure of any conference, conciliation and persuasion to remedy any alleged violation, the board may cause to have issued and served upon the operator alleged to be committing such violation a formal complaint that shall specify the provisions of this chapter that the operator allegedly is violating and a statement of the manner in and the extent to which said operator is alleged to be violating the provisions of this chapter. Such complaint may be served by certified mail, and a return receipt signed by the operator, an officer of a corporate operator, or the designated agent of the operator shall constitute service. The operator shall answer the complaint and request a hearing before a designated hearing officer within thirty (30) days from receipt of the complaint if matters asserted in the complaint are disputed. If the operator fails to answer the complaint and request a hearing, the matters asserted in the complaint shall be deemed admitted by the operator, and the board may proceed to cancel the reclamation or permanent closure plan and forfeit the financial assurance in the amount necessary to reclaim affected lands or complete the permanent closure activities. Upon request for a hearing by an operator, the board shall schedule a hearing before a hearing officer appointed by the board at a time not less than thirty (30) days after the date the operator requests a hearing. The board shall issue subpoenas at the request of the director of the department of lands and at the request of the charged operator, and the matter shall be otherwise handled and conducted in accordance with [chapter 52, title 67](#), Idaho Code. The hearing officer shall, pursuant to said hearing, enter an order in accordance with [chapter 52, title 67](#), Idaho Code, which, if adverse to the operator, shall designate a time period within which corrective action should be taken. The time period designated shall be long enough to allow the operator, in the exercise of reasonable diligence, to rectify any failure to comply designated in said order. In the event that the operator takes such action as is necessary to comply with the order within the time period designated in said order, no further action shall be taken by the board to compel performance under the chapter.

(b) Upon request of the board, the attorney general shall institute proceedings to have the financial assurance of an operator forfeited for the violation by the operator of an order entered pursuant to this section.

(c) The forfeiture of such financial assurance shall fully satisfy all obligations of the operator to reclaim the affected land or complete permanent closure activities under the provisions of this chapter. If the violation involves an operator that has not furnished financial assurance



required by this chapter, or an operator that is not required to furnish financial assurance pursuant to this chapter, or an operator who violates this chapter by performing an act not included in the original approved reclamation plan or the original approved permanent closure plan, and such departure from the plan is not subsequently approved, such operator shall be subject to a civil penalty for his failure to comply with such order in the amount determined by the board to be the anticipated cost of reasonable reclamation of affected lands or permanent closure of the cyanidation facility. Nothing in this subsection shall relieve the operator of any obligation, including the obligation to complete closure requirements, pursuant to a permit issued by the department of environmental quality under section [39-118A](#), Idaho Code, or limit that department's authority to require compliance with such permit requirements.

(d) Notwithstanding any other provisions of this chapter, the board may commence an action without financial assurance or undertaking, in the name of the state of Idaho, to enjoin any operator who is conducting operations without an approved plan required by section [47-1506](#), Idaho Code, or without the financial assurance required by this chapter. The court, or a judge thereof at chambers, if satisfied from the complaint or by affidavits that such acts have been or are being committed, shall issue a temporary restraining order without notice or bond, enjoining the defendant, his agents, and employees from conducting such operations without said plan or bond. Upon a showing of good cause therefor, the temporary restraining order may require the defendant to perform reclamation of the mined area in conformity with sections [47-1509](#) and [47-1510](#), Idaho Code, or to complete permanent closure activities, pending final disposition of the action. The action shall then proceed as in other cases for injunctions. If it is established at trial that the defendant has operated without an approved plan or financial assurance, the court shall enter, in addition to any other order, a decree enjoining the defendant, his agents and employees from thereafter conducting such activities or similar actions in violation of this chapter. The board may, in conjunction with its injunctive procedures, proceed in the same or in a separate action to recover from an operator who is conducting mining or exploration operations or operating a cyanidation facility without the required plan or financial assurance, the cost of performing the reclamation activities required by sections [47-1509](#) and [47-1510](#), Idaho Code, or the cost of permanent closure activities from any such operator who has not provided financial assurance to cover the cost of the required activities.

(e) Notwithstanding any other provision of this chapter, the board may, without bond or undertaking and without any administrative action, hearing or decision, commence an action in the name of the state of Idaho (1) to enjoin a permitted mining operation or cyanidation facility when, under an existing approved plan, an operator violates the terms of the plan and where immediate and irreparable injury, loss or damage may result to the state, and (2) to recover the penalties and to collect civil damages provided for by law.

(f) In addition to the procedures set forth in subsections (a), (d) and (e) of this section, and in addition to the civil penalty provided in subsection (c) of this section, any operator who violates any of the provisions of this chapter or rules adopted pursuant thereto, or who fails to perform the duties imposed by these provisions, or who violates any determination or order promulgated pursuant to the provisions of this chapter, shall be liable to a civil penalty of not less than five hundred dollars (\$500) nor more than



two thousand five hundred dollars (\$2,500) for each day during which such violation continues, and in addition may be enjoined from continuing such violation. Such penalties shall be recoverable in an action brought in the name of the state of Idaho by the attorney general in the district court for the county where the violation, or some part thereof, occurs, or in the district court for the county wherein the defendant resides.

(1) All sums recovered related to the reclamation provisions of this chapter shall be placed in the state treasury and credited to the mining reclamation fund, which is hereby created, to be used to reclaim affected lands and to administer the reclamation provisions of this chapter.

(2) All sums recovered related to the cyanidation facility closure provisions of this chapter shall be placed in the state treasury and credited to the cyanidation facility closure fund, which is hereby created. Moneys in the fund may be expended pursuant to appropriation and used to complete permanent closure activities and to administer the permanent closure provisions of this chapter.

(g) Any person who willfully and knowingly falsifies any records, information, plans, specifications, or other data required by the board or willfully fails, neglects, or refuses to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) or imprisonment not to exceed one (1) year, or both.

(h) Reclamation plans approved by the board as of July 1, 2019, shall be deemed to be in full compliance with the requirements of this chapter.

[47-1513, added 1971, ch. 206, sec. 13, p. 898; am. 1973, ch. 180, sec. 5, p. 415; am. 1974, ch. 17, sec. 37, p. 308; am. 1985, ch. 123, sec. 2, p. 305; am. 1988, ch. 223, sec. 3, p. 427; am. 1993, ch. 216, sec. 47, p. 630; am. 1997, ch. 269, sec. 5, p. 778; am. 2001, ch. 103, sec. 88, p. 328; am. 2005, ch. 167, sec. 11, p. 522; am. 2005, ch. 341, sec. 2, p. 1066; am. 2006, ch. 37, sec. 1, p. 101; am. 2019, ch. 226, sec. 13, p. 707.]

47-1514. APPEAL FROM FINAL ORDER -- PROCEDURE. (a) Any operator dissatisfied with any final order of the board made pursuant to this chapter may, within sixty (60) days after notice of such order, obtain judicial review thereof by appealing to the district court of the state of Idaho for the county wherein the operator resides or has a place of business, or to the district court for the county in which the cyanidation facility or the land or any portions thereof affected by the order is located. Such appeal shall be perfected by filing with the clerk of such court, in duplicate, a notice of appeal, together with a complaint against the board, in duplicate, which shall recite the prior proceedings before the board or hearing officer, and shall state the grounds upon which the petitioner claims he is entitled to relief. A copy of the summons and complaint shall be delivered to the board or such person or persons as the board may designate to receive service of process. The clerk of the court shall immediately forward a copy of the notice of appeal and complaint to the board, which shall forthwith prepare, certify and file in said court, a true copy of any decision, findings of fact, conclusions or order, together with any pleadings upon which the case was heard and submitted to the board or hearing officer, and shall, upon order of the court, provide transcripts of any record, including all exhibits and

testimony of any proceedings in said matter before the board or any of its subordinates. Such suit in the district court shall be a trial de novo and shall proceed in all respects like other civil suits, including, but not limited to, the rights of appeal to the supreme court of the state of Idaho.

(b) When the board finds that justice so requires, it may postpone the effective date of a final order made, pending judicial review. The reviewing court, including the court to which a case may be taken on appeal, may issue all necessary and appropriate orders to postpone the effective date of any final order pending conclusion of the review proceedings.

(c) Notwithstanding any other provision of this chapter concerning administrative or judicial proceedings, whenever the board determines that an operator has not complied with the provisions of this chapter, the board may file a civil action in the district court for the county wherein the violation, or some part thereof, occurs, or in the district court for the county wherein the defendant resides. The board may request the court to issue an appropriate order to remedy the violation. The right of appeal to the supreme court of the state of Idaho shall be available.

[47-1514, added 1971, ch. 206, sec. 14, p. 898; am. 1973, ch. 180, sec. 6, p. 415; am. 2005, ch. 167, sec. 12, p. 525.]

47-1515. INFORMATION. Any information supplied by an operator to the board, the director, or the department of lands, and designated by such operator as confidential, shall be subject to disclosure according to [chapter 1, title 74](#), Idaho Code.

[47-1515, added 1971, ch. 206, sec. 15, p. 898; am. 1974, ch. 17, sec. 38, p. 308; am. 1990, ch. 213, sec. 66, p. 535; am. 2015, ch. 141, sec. 123, p. 473.]

47-1516. DEPOSIT OF FORFEITURES AND DAMAGES. All forfeitures and civil damages collected under the provisions of this act shall be deposited with the state treasurer in a special fund to be used by the board for mined land reclamation purposes.

[47-1516, added 1971, ch. 206, sec. 16, p. 898; am. 2019, ch. 226, sec. 14, p. 710.]

47-1517. CONDUCT OF ACTIVITIES. (a) An operator shall conduct all exploration and mining operations in accordance with all applicable statutes and regulations pertaining to water use and mining safety applicable to exploration and mining operations.

(b) An operator desiring to operate a cyanidation facility within the state of Idaho shall conduct all related activities in accordance with all applicable statutes and rules related to cyanidation including, but not limited to, section [39-118A](#), Idaho Code.

[47-1517, added 1971, ch. 206, sec. 17, p. 898; am. 2005, ch. 167, sec. 13, p. 526; am. 2019, ch. 226, sec. 15, p. 710.]

47-1518. EFFECTIVE DATE -- APPLICATION OF CHAPTER. (a) The reclamation provisions of this chapter shall be in full force and effect on and after May 31, 1971. A surface mine operator shall not be required to perform the reclamation activities referred to in this chapter as to any surface mining oper-

ations performed prior to May 31, 1972, and, further, shall not be required to perform such reclamation activities as to any pit or overburden pile as it exists prior to May 31, 1972.

(b) The cyanidation provisions of this chapter shall be in full force and effect on and after July 1, 2005. A cyanidation facility with an existing permit approved by the department of environmental quality under section [39-118A](#), Idaho Code, as of July 1, 2005, shall be deemed to be in full compliance with the requirements of this chapter. If there is a material modification or a material expansion of a cyanidation facility after July 1, 2005, the provisions of this chapter shall apply to the modification or expansion. Provided however, that reclamation or closure-related activities at a facility with an existing cyanidation permit that did not actively add cyanide after January 1, 2005, shall not be considered to be material modifications or a material expansion of the facility.

(c) An underground mine operator shall not be subject to this chapter for affected land disturbed by underground mine operations prior to July 1, 2019. If there is a significant change to affected land at an underground mining operation after July 1, 2019, the provisions of this chapter shall apply to the significant change.

(d) The financial assurance and post-closure provisions of this chapter amended in 2019 shall be in force and effect on or after July 1, 2019. Provided that the financial assurance and post-closure provisions of this chapter amended in 2019 shall not apply to:

- (1) Mining operations currently permitted or authorized to commence operations prior to July 1, 2019; or
- (2) Any mining operation that has permanently ceased operations prior to July 1, 2019.

(e) For mining operations that have submitted maps and plans to state or federal agencies as required by section [47-1506](#), Idaho Code, but such operations have not been approved prior to July 1, 2019, such operations shall have one (1) year after operation approval to submit plans and financial assurance required by the financial assurance and post-closure provisions of this chapter as amended in 2019.

(f) The board shall promulgate temporary rules by August 1, 2019, to implement the 2019 amendments to this chapter.

[47-1518, added 1971, ch. 206, sec. 19, p. 898; am. 2005, ch. 167, sec. 14, p. 526; am. 2019, ch. 226, sec. 16, p. 710.]

47-1519. APPLICATION OF CHAPTER TO MINERAL EXTRACTION FOR PUBLIC HIGHWAY PURPOSES. Notwithstanding any other provision of law to the contrary, the bonding provisions of this chapter shall not apply to any surface mining operations conducted by a public or governmental agency for maintenance, repair, or construction of a public highway. Surface mining operations conducted by a public or governmental agency for maintenance, repair, or construction of a public highway which disturb two (2) or more acres shall comply with the provisions of section [47-1506](#), Idaho Code, as though all minerals were mined for the purpose of immediate or ultimate sale. Surface mining operations conducted by a public or governmental agency for maintenance, repair or construction of a public highway which disturb less than two (2) acres are exempt from the provisions of section [47-1506](#), Idaho Code. The extraction of minerals from within the right-of-way of a public highway by a public or governmental agency for maintenance, repair or construction of a public highway shall not be deemed surface mining operations under this

chapter, provided that the affected land is an integral part of the public highway.

[47-1519, added 1991, ch. 299, sec. 1, p. 786.]