

**IDAPA 20 – IDAHO DEPARTMENT OF LANDS**  
**Resource Protection and Assistance Bureau**  
**20.03.05 – Navigable Waterways Mineral Leasing in Idaho**

**Who does this rule apply to?**

*Individuals wishing to obtain exclusive mineral rights of sections of navigable riverbeds.*

**What is the purpose of this rule?**

*This rule ensures the state is compensated for the extraction of minerals from the beds of navigable waterways.*

**What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

Mines and Mining -

Mineral Rights in State Lands:

- [Section 47-710, Idaho Code](#) – Forms, Rentals, Royalties, and Fees
- [Section 47-714, Idaho Code](#) – Leases of Navigable River Beds Authorized

Public Lands -

Department of Lands:

- [Section 58-104, Idaho Code](#) – State Land Board — Powers and Duties

**Who do I contact for more information on this rule?**

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## 20.03.05 – NAVIGABLE WATERWAYS MINERAL LEASING IN IDAHO

### 000. AUTHORITY.

These rules are promulgated by the Board pursuant to Title 47, Chapter 7, Idaho Code, and Title 58, Chapter 1, Idaho Code Section 58-104. (7-1-24)

### 001. SCOPE.

**01. Where Applicable.** These rules apply to the exploration and extraction of minerals and salable minerals from state-owned navigable waterways. (7-1-24)

**02. Where Not Applicable.** These rules do not apply to the exploration and leasing of geothermal resources covered by title 47, Chapter 16, Idaho Code, or to the exploration and leasing of oil and gas resources covered by Title 47, Chapter 8, Idaho Code. (7-1-24)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

**01. Board.** The Idaho State Board of Land Commissioners or its designee. (7-1-24)

**02. Commercial.** The type of operation that engages in the removal of salable minerals or uses suction dredges with an intake diameter larger than five inches (5") or attendant power sources rated at greater than fifteen (15) horsepower and/or other motorized equipment. (7-1-24)

**03. Department.** The Idaho Department of Lands. (7-1-24)

**04. Director.** The Director of the Idaho Department of Lands or his designee. (7-1-24)

**05. Natural or Ordinary High Water Mark.** The line that the water impresses upon the soil by covering it for sufficient periods of time to deprive the soil of its vegetation and destroy its value for agricultural purposes. When the soil, configuration of the surface, or vegetation has been altered by human activity, the natural or ordinary high water mark will be located where it would have been if this alteration had not occurred. (7-1-24)

**06. Person.** An individual, corporation, partnership, limited liability company, association, trust, unincorporated organization, or other legal entity qualified to do business in the state of Idaho, and any federal, state, county, or local unit of government. (7-1-24)

**07. River Mile.** Five thousand two hundred eighty (5,280) feet of contiguous riverbed as measured along the approximate center of the river. (7-1-24)

**08. State-Owned Navigable Waterways and Navigable Waterways.** As used in these rules, the beds of all navigable rivers and lakes up to the natural or ordinary high water mark as of the date Idaho was admitted into statehood. This includes any such bed that was formerly submerged and subsequently filled, and is now uplands because of human activity (e.g., dikes, berms, jetties) or by natural processes, and includes islands within navigable waterways resulting from human activity or by natural processes. (7-1-24)

### 011. -- 014. (RESERVED)

### 015. CASUAL EXPLORATION.

**01. Lands Open.** All beds of navigable waterways that have not been located, leased or withdrawn in accordance with statute or the terms of these rules, are free and open to casual exploration on a nonexclusive and first come basis. (7-1-24)

**02. Equipment Limitations.** Mining equipment for casual exploration that may occur prior to the filing of a location or lease application is limited to suction dredges with a five (5") inch intake or less and powered equipment rated at fifteen (15) HP or less, or non-powered sluice equipment. (7-1-24)

**03. No Approval for Casual Exploration Required.** No written approval is required from the Director for casual exploration. (7-1-24)

**04. Department of Water Resources Permits.** Casual exploration requires a valid Stream Channel

Alteration Permit issued by the Idaho Department of Water Resources. (7-1-24)

**05. Lake Encroachment Permits.** An encroachment permit pursuant to Title 58, Chapter 13, Idaho Code is required prior to any mineral exploration or extraction in a navigable lake. (7-1-24)

**06. Department of Environmental Quality Permits.** Suction dredging requires a valid general or individual permit issued under the Idaho Pollutant Discharge Elimination System. (7-1-24)

**016. EXPLORATION LOCATIONS.**

**01. Lands Open.** The beds of navigable waterways that have not been located or withdrawn, or are not under application to lease, in accordance with statute or the terms of these rules, are available for exploration location; provided that salable minerals are not subject to exploration location. Details of exploration locations on state lands can be found in Title 47, Chapter 7, Idaho Code. (7-1-24)

**02. Size of Location.** Each exploration location is limited to one-half (1/2) mile in length on a navigable river or stream, or a 20-acre aliquot part on a navigable lake. (7-1-24)

**03. Record Keeping Required.** A locator must keep a record of all minerals recovered during exploration operations and must pay to the state a royalty of five percent (5%) of the gross value of the minerals recovered. Payment must be made each year with the filing of the assessment work report. (7-1-24)

**04. When No Written Approval Required.** No written approval is required from the Department for casual exploration in a navigable river on an exploration location. Casual exploration performed under a Stream Channel Alteration Permit does not serve to establish any basis for an exploration location. (7-1-24)

**05. When Written Approval Required.** Written approval is required from the Department prior to entry for operators conducting motorized exploration. Approved operations must be bonded as outlined in Subsection 040.02. (7-1-24)

**017. -- 019. (RESERVED)**

**020. RIVERBED MINERAL LEASE.**

**01. Limitations on Suction Dredges.** Operators may not use suction dredges with an intake diameter larger than five inches (5") or attendant power sources rated greater than fifteen (15) horsepower, except under lease. (7-1-24)

**02. Approval Required Before Operations.** Prior to entry upon navigable waterways, operators are required to have written approval from the Department. (7-1-24)

**03. Bonding.** Approved operations must be bonded as outlined in Subsection 040.01. (7-1-24)

**04. Simultaneous Filings.** Two (2) or more lease applications received on the same date and hour, covering the same lands, are considered simultaneous filings. Simultaneous filings will be resolved by competitive bidding. (7-1-24)

**021. -- 024. (RESERVED)**

**025. PUBLIC NOTICE AND HEARING.**

**01. Publication of Notice.** Upon receipt by the Board of an application to lease any lands that may belong to the state of Idaho by reason of being situated between the high water marks of navigable waterways, the Board will cause at the expense of the applicant, a notice of such application to be published once a week for two (2) issues in a newspaper of general circulation in the county or counties in which said lands described in said application are situated. (7-1-24)

**02. Public Hearing.** The Board may order a public hearing on an application if it deems this action is in the best interest of the public. (7-1-24)

**03. Petition for Hearing.** The Board or its authorized representative will hold a public hearing on the application, if requested in writing no later than thirty (30) days after the last published notice by ten (10) person whose lawful rights to use the waters applied for may be injured thereby, or by an association presenting a petition with signatures of not less than ten (10) such aggrieved parties; provided that the Board may order a public hearing in the first instance. The Board will consider fully all written and oral submissions respecting the application. (7-1-24)

**026. -- 029. (RESERVED)**

**030. RENTAL AND ROYALTY AND LATE PAYMENTS.**

**01. Minimum Annual Rental.** The minimum annual rental is five hundred dollars (\$500). (7-1-24)

**02. Royalty Schedule.** A royalty schedule for each commodity leased must be attached and made a part of the mineral lease. (7-1-24)

**03. Late Payments.** Rental or royalty not paid by the due date is considered late and will result in the following monthly charges: (7-1-24)

**a.** A late charge of twenty-five dollars (\$25) or one percent (1%) of the unpaid principal obligation, whichever is greater; and (7-1-24)

**b.** An interest charge of one percent (1%) on the unpaid principal obligation. (7-1-24)

**04. Late Charge Accrual.** The Department will send monthly statements with the outstanding balance that will remain on the account and will continue to accrue late charges and interest each month, or any portion of a month, until the balance is paid in full. All payments will be applied first to accrued interest and late charges, and then to principal. (7-1-24)

**031. LEASE SIZE.**

**01. One Mile Limitation.** A riverbed lease may not exceed one (1) contiguous river mile in length or all the riverbed within one (1) section should all the available state lands within the section exceed one (1) river mile. (7-1-24)

**02. Salable Minerals.** Leases for salable minerals may be limited to a smaller size tract at the Board's discretion. (7-1-24)

**032. -- 034. (RESERVED)**

**035. ASSIGNMENTS.**

**01. Prior Written Approval.** No lease assignment is valid until approved in writing by the Department. A lease may be assigned to any person qualified to hold a lease. (7-1-24)

**02. Partial Assignment.** A lease may be partially assigned if both the assigned and the retained part created by the assignment contain not less than one-half (1/2) mile length of river bed. The resulting leases continue in full force and effect for the balance of the term of the original lease unless otherwise terminated in accordance with the terms of the lease. (7-1-24)

**036. -- 039. (RESERVED)**

**040. BOND.**

**01. Lease Bond.** Concurrent with the lessee's execution of the lease, lessee must furnish to the

Department a bond in favor of the state of Idaho on a Department form in the amount of five thousand dollars (\$5,000) for commercial operations and one thousand dollars (\$1,000) for all other operations. The bond will be conditioned on the payment of all damages to the land and all improvements thereon which result from the lessee's operation and conditioned on complying with statute, these rules and the lease terms. This bond is in addition to bonds required by Title 47, Chapter 13, Idaho Code. (7-1-24)

**02. Motorized Exploration.** Motorized exploration on an exploration location is subject to a bond that covers the estimated reasonable cost of reclamation as provided in Section 47-703A, Idaho Code. (7-1-24)

**041. -- 044. (RESERVED)**

**045. FEES.**

The following fees apply and are nonrefundable: (7-1-24)

**01. Lease Application.** Four hundred twenty five dollars (\$425) per application. (7-1-24)

**02. Lease Application Advertising.** Seventy-five dollars (\$75) per application. (7-1-24)

**03. Exploration Location.** Five hundred dollars (\$500) per location. (7-1-24)

**04. Assignment.** Two hundred dollars (\$200) per lease involved in the assignment. (7-1-24)

**046. -- 999. (RESERVED)**