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IDAPA 20
TITLE 03
CHAPTER 02

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

000. LEGAL AUTHORITY.

Title 47, Chapter 15 ("chapter"), Idaho Code, authorizes the Idaho State Board of Land Commissioners ("Board") to promulgate rules pertaining to mineral exploration; surface mining operations; reclamation of lands affected by exploration and surface mining operations, including review and approval of reclamation and permanent closure plans; requirements for performance bonds for reclamation and permanent closure, and to establish a reasonable fee for reviewing and approving permanent closure plans for cyanidation facilities, including the reasonable cost to employ a qualified independent party, acceptable to the applicant and the Board, to review permanent closure plans and to verify the accuracy of cost estimates to complete permanent closure. The Board has delegated to the director of the Department of Lands ("Department") the duties and powers under the chapter and these rules, provided the Board retains responsibility for administrative review. (3-30-06)

001. TITLE AND SCOPE.

01. **Title**. These rules shall be cited as IDAPA 20.03.02, "Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities," IDAPA 20, Title 03, Chapter 02. (3-30-06)

02. **Purpose**. These rules are intended to provide for the protection of public health, safety, and welfare, by ensuring that all the lands within the state disturbed by exploration and surface mining operations are properly reclaimed and ensuring the proper permanent closure of cyanidation facilities and thereby conserve natural resources; aid in the protection of wildlife, domestic animals, and aquatic resources; and reduce soil erosion. It is also the purpose of these rules to implement the State of Idaho's antidegradation policy as set forth in Executive Order No. 88-23 as it pertains to exploration and surface mining operations and cyanidation facilities operating in the state. These rules are not intended to require reclamation or permanent closure activities in addition to those required by the chapter. (3-30-06)

03. **Scope**. These rules establish: (3-30-06)

a. Requirements for exploration; (3-30-06)

b. Procedures for approval of a surface mining reclamation plan, including an operating plan, when required by Section 47-1506(b), Idaho Code; (7-1-98)

c. Procedures for approval of a permanent closure plan for cyanidation facilities; (3-30-06)

d. Requirements for performance bonds for postmining reclamation to be posted prior to beginning surface mining operations; (11-1-89)

e. Requirements for performance bonds for permanent closure of cyanidation facilities to be posted prior to beginning the construction and operation of a cyanide ore-processing facility; (3-30-06)

f. Reclamation requirements lands disturbed by exploration and surface mining operations; (3-30-06)

g. Permanent closure requirements for cyanidation facilities; and (3-30-06)

h. Procedures for ensuring compliance with the chapter and these rules. (3-30-06)

04. **Other Laws**. Operators engaged in exploration, surface mining operation, and operation of a cyanidation facility shall comply with all applicable laws and rules of the state of Idaho including, but not limited to the following: (3-30-06)

a. Idaho water quality standards and waste water treatment requirements established in Title 39,

Chapter 1, Idaho Code; IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements"; and IDAPA 58.01.11, "Ground Water Quality Rule," administered by the Idaho Department of Environmental Quality ("DEQ"). (3-30-06)

b. Requirements and procedures for hazardous and solid waste management, as established in Title 39, Chapter 44, Idaho Code, and rules promulgated thereunder including, IDAPA 58.01.05, "Rules and Standards for Hazardous Waste" and IDAPA 58.01.06, "Solid Waste Management Rules," administered by the DEQ. (3-30-06)

c. Section 39-118A, Idaho Code, and applicable rules for ore processing by cyanidation as promulgated and administered by the DEQ as defined in IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation." (3-30-06)

d. Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. (11-1-89)

e. Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, and applicable rules promulgated and administered by the Idaho Department of Water Resources. (3-30-06)

05. Applicability. These rules are to be read and applied in conjunction with the chapter. These rules apply to all exploration, surface mining operations, and permanent closure of cyanidation facilities on all lands in the state, regardless of ownership, with the following exceptions: (3-30-06)

a. These rules apply to surface mining operations or exploration operations conducted on all lands within the state, regardless of ownership, commenced after the effective date of these rules. These rules shall in no way affect, alter, or modify the terms or conditions of any approved reclamation plan or approved amendment thereto or a performance bond for reclamation obtained prior to January 1, 1997. If a material change arises and is regulated in accordance with Subsection 090.01, then the operator shall submit a supplemental reclamation plan. (3-30-06)

b. These rules shall not apply to: (3-30-06)

i. Any surface mining operations performed prior to May 31, 1972, and further, an operator shall not be required to perform such reclamation activities as to any pit or overburden pile as it existed prior to May 31, 1972; (3-30-06)

ii. Mining operations for which the Idaho Dredge and Placer Mining Protection Act requires a permit, or which are otherwise regulated by that act, nor to surface disturbances resulting from underground mining. (3-30-06)

iii. 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, provided the affected land is an integral part of such highway. (3-30-06)

c. Sand and gravel mining operations in state-owned beds of navigable lakes, rivers or streams shall constitute an approved surface mining plan for the purpose of these rules if they are covered by a valid lease granted by the BoardBoard in accordance with Title 47, Chapter 7, Idaho Code and IDAPA 20.03.05, "Rules Governing Riverbed Mineral Leasing," and a valid mineral lease bond; have a valid stream channel alteration permit issued by the Idaho Department of Water Resources; and have a plan of operation for the mineral lease approved by the DepartmentDepartment. (3-30-06)

d. Surface mining operations, conducted by a public or governmental agency for maintenance, repair, or construction of a public highway, which: (3-30-06)

i. Disturb more than two (2) acres shall comply with the provisions of Section 069; or (3-30-06)

ii. Disturb less than two (2) acres are only required to comply with Subsections 060.06.a. through 060.06.c. (3-30-06)

e. A cyanidation facility with a permit approved by the DEQ prior to July 1, 2005, shall be subject to the applicable laws and rules for ore processing by cyanidation in effect on June 30, 2005; however, if there is a material modification or material expansion to a cyanidation facility after July 1, 2005, these rules shall apply to the modification or expansion. (3-30-06)

002. WRITTEN INTERPRETATIONS.
The Department maintains written interpretations of its rules which may include, but may not be limited to, written procedures manuals and operations manuals, Attorney General formal and informal opinions, and other written guidance, which pertain to the interpretation of the rules of this chapter. Copies of the procedures manuals and operations manuals, Attorney General opinions, and other written interpretations, if applicable, are available for public inspection and copying at the Idaho Department of Lands, 300 North 6th Street, Suite 103, Boise, Idaho 83720. (3-30-06)

003. ADMINISTRATIVE APPEALS.
If an operator fails to comply with the provisions of the chapter or these rules, the director may notify the operator of such noncompliance and endeavor to remedy any alleged violation in accordance with Section 47-1513, Idaho Code. If the director determines that administrative action is necessary to correct any alleged violations, up to and including forfeiture of a reclamation or permanent closure bond, he shall follow the procedures established in Section 47-1513, Idaho Code. (3-30-06)

004. INCORPORATION BY REFERENCE.
There are no documents incorporated by reference into this rule. (3-30-06)

005. INCLUSIVE GENDER.
For all sections and subsections of these rules, the terms and references used in the masculine sense include the feminine sense and vice versa, as appropriate. (3-30-06)

006. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The principal place of business of the Department of Lands is in Boise, Idaho. The office is located at 300 North 6th Street, Suite 103, Boise, Idaho and is open from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. The mailing address is: Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720-0050. The telephone of the office is (208) 334-0200 and the fax number is (208) 334-2339. (3-30-06)

007. PUBLIC RECORDS ACT COMPLIANCE.
The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code and are public records.

(3-30-06)

008. -- 009. (RESERVED)

010. DEFINITIONS.

01. Affected Land. The land area included in overburden disposal areas, mined areas, mineral stockpiles, roads, tailings ponds, and other areas disturbed at the surface mining operation site. (11-1-89)

02. Approximate Previous Contour. A contour that is reasonably comparable to that contour existing prior to disturbance, or that blends with the adjacent topography. (11-1-89)

03. Best Management Practices ("BMPs"). Practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan, as described in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals. (3-30-06)

04. Board. The State Board of Land Commissioners or any Department, commission, or agency that may lawfully succeed to the powers and duties of such Board. (11-1-89)

05. **Chapter**. The Idaho Surface Mining Act, Title 47, Chapter 15, Idaho Code. (3-30-06)

06. **Cyanidation**. The method of extracting target precious metals from ores by treatment with cyanide solution, which is the primary leaching agent for extraction. (3-30-06)

07. **Cyanidation Facility**. 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. (3-30-06)

08. **Department**. The Idaho Department of Lands. Its business address is 300 North 6th Street, Suite 103, Boise, Idaho 83720. (7-1-98)

09. **DEQ**. The Department of Environmental Quality. (11-1-89)

10. **Director**. The head of the Department of Lands or such officer as may lawfully succeed to the powers and duties of said director. It shall also mean such representative as may be designated by the director. (11-1-89)

11. **Discharge**. With regard to cyanidation facilities, when used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (3-30-06)

12. **Exploration Drill Holes**. Holes drilled from the surface to locate mineral bodies and to determine the mineability and merchantability thereof. (11-1-89)

13. **Exploration Operations**. Activities performed on the surface of lands to locate mineral bodies and to determine the mineability and merchantability thereof. These activities include, but are not limited to, construction of roads, trenches, and exploration drill holes. (11-1-89)

14. **Exploration Roads**. Roads constructed to locate mineral bodies and to determine the mineability and merchantability thereof. (11-1-89)

15. **Exploration Trenches**. Trenches constructed to locate mineral bodies and to determine the mineability and merchantability thereof. (11-1-89)

16. **Final Order of the Board**. 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. (11-1-89)

17. **Groundwater.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-30-06)

18. **Hearing Officer**. That person selected by the Board to hear proceedings under Section 47-1513, Idaho Code. It also means that person selected by the director to hear proceedings initiated under Section 110 or Section 160 of these rules. (11-1-89)

19. **Land Application**. With regard to cyanidation facilities, a process or activity involving application of process water, wastewater, surface water, or semi-liquid material to the land for the purpose of disposal, pollutant removal, or groundwater recharge. (3-30-06)

20. **Material Change**. (3-30-06)

a. For surface mining, a change which deviates from the approved reclamation plan and causes one (1) of the following to occur: (3-30-06)

i. Results in a substantial adverse affect to the geotechnical stability of overburden disposal areas, topsoil, stockpiles, roads, embankments, tailings facilities or pit walls; (7-1-98)

ii. Substantially modifies surface water management, not to include routine implementation and maintenance of BMPs; (3-30-06)

iii. Exceeds the permitted acreage; or (7-1-98)

iv. Increases overall estimated reclamation costs by more than fifteen percent (15%). (7-1-98)

b. For cyanidation facilities, a change which causes one (1) of the following to occur: (3-30-06)

i. A substantial adverse effect to the geotechnical stability of the cyanidation facilities; (3-30-06)

ii. The need for a substantial change in the water management plan. (3-30-06)

iii. Increases in overall estimated permanent closure costs by more than fifteen percent (15%). (3-30-06)

21. Material Modification or Material Expansion. With regard to cyanidation facilities: (3-30-06)

a. The addition of a new beneficiation process, or a significant change in the capacity of an existing beneficiation process, which was not identified in the original application and that significantly increases the potential to degrade the waters of the state. Such process could include, but is not limited to, heap leaching and process components for milling; or (3-30-06)

b. A significant change in the location of a proposed process component or site condition which was not adequately described in the original application; or (3-30-06)

c. A change in the beneficiation process that alters the characteristics of the waste stream in a way that significantly increases the potential to degrade the waters of the state. (3-30-06)

d. For a cyanidation facility with an existing permit that did not actively add cyanide after January 1, 2005, reclamation and closure related activities shall not be considered to be material modifications or material expansions of the cyanidation facility. (3-30-06)

22. Material Stabilization. Managing or treating spent ore, tailings, other solids and/or sludges resulting from the cyanidation process in such a manner to minimize waters or all other applied solutions from migrating through the material and transporting pollutants associated with the cyanidation facility ensuring that all discharges comply with all applicable standards and criteria. (3-30-06)

23. Mine Panel. That area designated by the operator as a panel of a surface mine on the map submitted pursuant to Section 47-1506, Idaho Code. (11-1-89)

24. Mined Area. Surface of land from which overburden or minerals have been removed other than by drilling of exploration drill holes. (11-1-89)

25. Mineral. Coal, clay, stone, sand, gravel, metalliferous and non-metalliferous types of ores, and any other similar, solid material or substance of commercial value to be excavated from natural deposits on or in the earth. (11-1-89)

26. Mineral Stockpile. Mineral extracted during surface mining operations and retained at the surface mine for future rather than immediate use. (11-1-89)

27. Motorized Earth-Moving Equipment. Backhoes, bulldozers, front-loaders, trenchers, core drills, and other similar equipment. (11-1-89)

28. Neutralization. Treatment of process waters such that discharge or final disposal of those waters does not, or shall not violate all applicable standards and criteria. (3-30-06)

29. **Operator**. Any person or persons, any partnership, limited partnership, or corporation, or any association of persons, either natural or artificial, including but not limited to every public or governmental agency engaged in surface mining or exploration operations, or engaged in the operation and/or permanent closure of 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 surface 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 the chapter. (3-30-06)

30. **Overburden**. Material extracted by an operator which is not a part of the material ultimately removed from a surface mine and marketed by an operator, exclusive of mineral stockpiles. (11-1-89)

31. **Overburden Disposal Area**. Land surface upon which overburden is piled or planned to be piled. (11-1-89)

32. **Peak**. A projecting point of overburden. (11-1-89)

33. **Permanent Closure**. Those activities which result in neutralization, material stabilization, and decontamination of cyanidation facilities and/or facilities' final reclamation. (3-30-06)

34. **Permanent Closure Plan**. A description of the procedures, methods, and schedule that will be implemented to meet the intent and purpose of the 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. (3-30-06)

35. **Permit**. When used without qualification, any written authorization by the Department of Environmental Quality, issued pursuant to the application, public participation, and appeal procedures in IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," governing the location, operation and maintenance, monitoring, seasonal and permanent closure, discharge response, and design and construction of a new cyanidation facility or a material expansion or material modification to a cyanidation facility. (3-30-06)

36. **Pilot Facility**. (3-30-06)

a. A testing cyanidation facility that is constructed primarily to obtain data on the effectiveness of the beneficiation process to determine: (3-30-06)

i. The feasibility of metals recovery from an ore; or (3-30-06)

ii. The optimum operating conditions for a predetermined process to extract values from an ore. (3-30-06)

b. A pilot or testing cyanidation facility operated for one (1) year for a single test or two (2) years for multiple tests, during which time no more than ten thousand (10,000) tons of ore are evaluated for the testing process(es), unless the applicant can demonstrate that a greater amount is necessary for a specific purpose in the testing process. (3-30-06)

37. **Pit**. An excavation created by the extraction of minerals or overburden during surface mining operations. (11-1-89)

38. **Pollutant**. Chemicals, chemical waste, process water, biological materials, radioactive materials, or other materials which, when discharged cause or contribute adverse effects to any beneficial use, or for any other reason, may impact the surface or ground waters of the state. (3-30-06)

39. **Post Closure**. The period after completion of permanent closure when the operator is monitoring the effectiveness of the permanent closure activities. Post closure shall last a minimum of twelve (12) months, but may extend until the cyanidation facility is shown to be in compliance with the stated permanent closure objectives

and the requirements of the chapter. (3-30-06)

40. **Process Waters**. Any liquids which are intentionally or unintentionally introduced into any portion of the cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. (3-30-06)

41. **Reclamation**. The process of restoring an area affected by a surface mining operation to its original or another beneficial use, considering previous uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. (11-1-89)

42. **Revegetation**. The establishment of the premining vegetation or a comparable vegetative cover on the land disturbed by surface mining operations. (11-1-89)

43. **Ridge**. A lengthened elevation of overburden. (11-1-89)

44. **Road**. A way constructed on a surface mine for the passage of vehicles, including the bed, slopes and shoulders thereof. (11-1-89)

45. **Small Cyanidation Processing Facility**. A cyanidation facility which chemically processes less than thirty-six thousand five hundred (36,500) tons of ore per year and no more than one hundred twenty thousand (120,000) tons of ore for the life of the project at any one (1) permitted cyanidation facility. No person or operator may concurrently hold more than one (1) small cyanidation processing facility permit, if located within ten (10) miles of each other. (3-30-06)

46. **Surface Mine**. 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. (11-1-89)

47. **Surface Mining Operations**. The activities performed on a surface mine in the extraction of minerals from the ground, including the excavation 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, 1) result during a period of twelve (12) consecutive months in more than five (5) contiguous acres of newly affected land, or 2) which, exclusive of exploration roads, results during a period of twelve (12) consecutive months in newly affected lands 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 which includes such affected land, shall be deemed to be a surface mining operation for the purposes of the act. (11-1-89)

48. **Surface Waters**. The surface waters of the state of Idaho. (11-1-89)

49. **Tailings Pond**. An area on a surface mine 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 mine. (11-1-89)

50. **Treatment**. With regard to cyanidation facilities, any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a waste for the purpose of disposal. (3-30-06)

51. **Water Balance**. An inventory and accounting process capable of being reconciled that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water and other pollutants can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. (3-30-06)

52. **Water Management Plan**. A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the

state, unless permitted or otherwise approved by the DEQ. (3-30-06)

53. Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. These waters shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state. (3-30-06)

54. Weak Acid Dissociable (WAD) Cyanide. The cyanide concentration as determined by Method C, Weak Acid Dissociable Cyanide, D2036, the American Society of Testing Materials Book of Standards, "Standard Methods for the Examination of Water and Wastewater," Method 4500 CN^- I, or other methods accepted by the scientific community and deemed appropriate by the DEQ. (3-30-06)

011. -- 049. (RESERVED)

050. ADMINISTRATION.
The Department shall administer these rules under the direction of the director. (3-30-06)

051. -- 059. (RESERVED)

060. EXPLORATION OPERATIONS AND REQUIRED RECLAMATION.

01. Diligence. All reclamation activities required to be conducted on exploration sites shall be performed in a good, workmanlike manner with all reasonable diligence, and as to a given exploration drill hole, road, or trench, within one (1) year after abandonment thereof. (11-1-89)

02. When Exploration Is Surface Mining. Exploration operations may under some circumstances constitute surface mining operations (see Subsection 010.46). (3-30-06)

03. Notification. Any operator desiring to conduct exploration using motorized earth-moving equipment to locate minerals for immediate or ultimate sale shall notify the Department by certified mail within seven (7) days after beginning exploration operations. (3-30-06)

04. Contents of Notification. The notification shall include: (3-30-06)

a. The name and address of the operator; (11-1-89)

b. The legal description of the exploration and its starting and estimated completion date; and (3-30-06)

c. The anticipated size of the exploration and the general method of operation. (3-30-06)

05. Confidentiality. Any such notification shall be treated as confidential in accord with Section 180. (3-30-06)

06. Exploration Reclamation (Less Than Two Acres). Every operator who conducts exploration affecting less than two (2) acres shall: (3-30-06)

a. Wherever possible, contour the affected lands to their approximate previous contour; and (11-1-89)

b. Conduct revegetation activities in accordance with Subsection 140.11. Unless otherwise required by a federal agency, one (1) pit or trench on a federal mining claim showing discovery, may be left open pending verification by federal mining examiners. (3-30-06)

c. Abandoned exploration drill holes shall be plugged, or otherwise left so as to eliminate hazards to humans and animals. Pits or trenches on mining claims showing discovery may be left open pending verification by federal mining examiners but shall not create a hazard to humans or animals. Such abandoned pits and trenches shall be reclaimed within one (1) year of verification. (3-30-06)

d. If water runoff from exploration causes siltation of surface waters in amounts more than normally results from runoff, the operator shall reclaim affected lands and adjoining lands under his control as is necessary to re-establish runoff conditions that existed prior to starting exploration, or as is necessary to meet state water quality standards, whichever is the lesser standard. It shall be presumed that state water quality standards will be the applicable standard unless baseline data is provided to rebut the presumption. (3-30-06)

07. Exploration Reclamation (More Than Two Acres). Reclamation of lands where exploration has affected more than two (2) acres shall be completed as set forth in Subsection 060.06 and the following additional requirements: (3-30-06)

a. Abandoned exploration roads shall be cross-ditched as necessary to minimize erosion. The director may request in writing, or may be petitioned in writing, that a given road or road segment be left for a specific purpose and not be cross-ditched or revegetated. If the director approves the petition, the operator cannot thereafter be required to conduct reclamation activities with respect to that given road or road segment. (3-30-06)

b. Ridges of overburden shall be leveled so as to have a minimum width of ten (10) feet at the top. (11-1-89)

c. Peaks of overburden shall be leveled so as to have a minimum width of fifteen (15) feet at the top. (11-1-89)

d. Overburden piles shall be reasonably prepared to control erosion. (11-1-89)

e. Abandoned lands affected by exploration shall be top-dressed to the extent that such overburden is reasonably available from any pit or other excavation created by the exploration, with that type of overburden that is conducive to the control of erosion or the growth of vegetation that the operator elects to plant thereon. (3-30-06)

f. Any water containment structure created in connection with exploration, shall be reasonably prepared so as not to constitute a hazard to humans or animals. (3-30-06)

08. Additional Reclamation. The operator and the director may agree, in writing, to complete additional reclamation beyond the requirements established in the chapter and these rules. (3-30-06)

061. -- 068. (RESERVED)

069. APPLICATION PROCEDURE AND REQUIREMENTS FOR QUARRIES, DECORATIVE STONE, BUILDING STONE, AND AGGREGATE MATERIALS INCLUDING SAND, GRAVEL AND CRUSHED ROCK.

01. Approval Required. Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency. (3-30-06)

02. No Operator Shall Conduct Surface Mining Operations. No operator shall conduct surface mining operations on any lands in the state until the surface mining reclamation plan has been approved by the director, and the operator has filed a bond that meets the requirements of the chapter and these rules. (3-30-06)

03. Application Package. The operator must submit five (5) complete copies of the application package, for each separate surface mine or mine panel, before the reclamation plan will be approved. Separate surface mines are individual, physically disconnected operations. A complete application package consists of: (3-30-06)

a. An application provided by the director; (7-1-98)

b. A map or maps of the proposed mining operation which includes the information required under Subsection 069.03; (7-1-98)

c. A reclamation plan, in map and narrative form, which includes the information required under

Subsection 069.04; and (3-30-06)

d. An out-of-state operator shall designate an in-state agent authorized to act on behalf of the operator. In case of an emergency that requires an action or actions to prevent environmental damage, both the operator and the authorized agent will be notified as well. (3-30-06)

04. Map Requirements. A vicinity map shall be prepared on standard United States Geological Survey ("USGS") seven and one-half (7.5) minute quadrangle maps or equivalent. A map of the proposed surface mining operation site shall be of sufficient scale to show: (3-30-06)

a. The location of existing roads, access, and main haul roads to be constructed or reconstructed in conjunction with the surface mining operation and the approximate dates for construction, reconstruction, and abandonment; (3-30-06)

b. The approximate location and names, if known, of drainages, streams, creeks, or water bodies within one thousand (1,000) feet of the surface mining operation; (3-30-06)

c. The approximate boundaries of the lands to be utilized in the surface mining operations, including a legal description to the quarter-quarter section; (3-30-06)

d. The approximate boundaries and acreage of the lands that will become affected land as a result of the surface mining operation during the first year of operations; (3-30-06)

e. The currently planned storage locations of fuel, equipment maintenance products, wastes, and chemicals that will be utilized in the surface mining operation; (3-30-06)

f. The currently planned location and configuration of pits, overburden piles, crusher reject materials, topsoil storage, wash plant ponds and sediment ponds that will be utilized; (3-30-06)

g. Scaled cross-sections by length and height showing surface profiles prior to mining; and (7-1-98)

h. A surface and mineral control or ownership map of appropriate scale for boundary identification; (7-1-98)

05. Reclamation Plan Requirements. Reclamation plans must be submitted in map and narrative form and include the following: (3-30-06)

a. Where surface waters are likely to be impacted and when requested by the director, documents identifying and assessing foreseeable, site-specific nonpoint sources of water quality impacts upon adjacent surface waters and the BMPs the operator will use to control such impacts during surface mining and reclamation; (3-30-06)

b. Scaled cross-sections by length and height, showing planned surface profiles and slopes after reclamation; (3-30-06)

c. Roads to be reclaimed; (7-1-98)

d. A plan for revegetation of affected lands including soil types, slopes, precipitation, seed rates, species, handling of topsoil or other growth medium, time of planting, method of planting and, if necessary, fertilizer and mulching rates; (7-1-98)

e. The planned reclamation of wash plant or sediment ponds; (3-30-06)

f. A drainage control map which identifies the location of BMPs that will be implemented to control erosion and such nonpoint source water quality impacts during surface mining and reclamation activities. (3-30-06)

070. APPLICATION PROCEDURE AND REQUIREMENTS FOR OTHER SURFACE MINING OPERATIONS INCLUDING HARDROCK AND PHOSPHATE MINING.

01. Reclamation Plan Approval Required. Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency. No operator shall conduct surface mining operations on any lands in the state until the reclamation plan has been approved by the director, and the operator has filed the required performance bond. (3-30-06)

02. Application Package. The operator must submit five (5) complete copies of the application package for each separate surface mine or mine panel before the reclamation plan will be approved. Separate surface mines are individual, physically disconnected operations. A complete application package consists of: (3-30-06)

a. All items and information required under Section 069 of these rules; (3-30-06)

b. Any additional information required by Subsection 070.04; and (3-30-06)

c. An operating plan, if required by Section 47-1506(b), Idaho Code, prepared in accordance with Subsections 070.05 and 070.06 of these rules. (3-30-06)

03. Map Requirements. Maps shall be prepared in accordance with Subsection 069.04 of these rules. (3-30-06)

04. Reclamation Plan Requirements. Reclamation plans must include all of the information required under Subsection 069.05 and the following additional information: (3-30-06)

a. A description of the planned reclamation of tailings or sediment ponds; and (3-30-06)

b. An estimate of total reclamation cost to be used in establishing bond amount. The cost estimate should include the approximate cost of grading, revegetation, equipment mobilization, labor, and other pertinent costs. (11-1-89)

c. A description of foreseeable, site-specific impacts from acid rock drainage and the BMPs that will be used to mitigate any impacts from such acid rock drainage. (3-30-06)

d. Other pertinent information the Department has determined is necessary to ensure that the operator will comply with the requirements of the chapter. (3-30-06)

05. Operating Plan Requirements. A complete operating plan shall consist of: (3-30-06)

a. Maps showing: (3-30-06)

i. The location of existing roads and anticipated access and principal haul roads planned to be constructed for surface mining operations. (3-30-06)

ii. The boundaries and acreage of the affected lands. (3-30-06)

iii. The planned location of pits, mineral stockpiles, overburden piles and tailings ponds for the surface mining operation. (3-30-06)

iv. The location and, if known, the names of all streams, creeks, or water bodies within the area of the affected lands. (3-30-06)

v. The drainage adjacent to the area where the surface is being utilized by surface mining operations. (7-1-98)

vi. The approximate boundaries and acreage of the lands that will become affected during the first year of surface mining operations. (3-30-06)

b. Additional information regarding coarse and durable rock armor, if any, is proposed to be used for

reclamation of mine facilities. The director may, after considering the type, size, and potential environmental impact of the facility, require the operator to include additional information in the operating plan. Such information may include, but is not limited to, one (1) or more of the following: (3-30-06)

i. A description of the quantities, size, geologic characteristics, and durability of the materials to be used for final reclamation and armoring. (3-30-06)

ii. A description of how the coarse and durable materials will be handled and/or stockpiled, including a schedule for such activities that will ensure adequate quantities are available during reclamation. (3-30-06)

c. The director may, after considering the type, size, and potential environmental impact of the facility, require the operator to prepare a geotechnical analysis and report, signed by an engineer registered in the state of Idaho, which shows that (1) any waste rock or overburden stockpiles, (2) any pit walls proposed to be more than one hundred (100) feet high, or (3) any pit walls where geologic conditions could lead to failure of the wall regardless of the height will be constructed in a manner that is consistent with industry standards to minimize the potential for failure. If failure of these structures can reasonably be expected to impact adjacent surface or ground waters or adjacent private or state-owned lands, the analysis may be required to consider the long-term stability of these structures, the potential for groundwater accumulation, and the expected seismic accelerations at the site. (3-30-06)

071. APPLICATION PROCEDURE AND REQUIREMENTS FOR PERMANENT CLOSURE OF CYANIDATION FACILITIES.

01. Permanent Closure Plan Approval Required. No operator shall construct or operate a new cyanidation facility or materially modify or materially expand an existing cyanidation facility prior to obtaining a permit, approval from the director and before the operator has filed a bond, as required by these rules. (3-30-06)

02. Permanent Closure Plan Requirements. A permanent closure plan shall: (3-30-06)

a. Identify the current owner of the cyanidation facility and the party responsible for the permanent closure and the long-term care and maintenance of the cyanidation facility; (3-30-06)

b. Include a timeline showing: (3-30-06)

i. The schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the operator shall be responsible for post-closure activities; and (3-30-06)

ii. If the operator plans to complete construction, operation, and/or permanent closure of the cyanidation facility in phases, the schedule to begin each phase of construction, operation, and/or permanent closure activities and any associated post-closure activities. (3-30-06)

c. Provide the objectives, methods, and procedures that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure; (3-30-06)

d. Provide a water management plan from the time the cyanidation facility is in permanent closure through the defined post-closure period. The plan shall be prepared in accordance with IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," administered by the DEQ, as required to meet the objectives of the permanent closure plan. (3-30-06)

e. Include the schematic drawings for all BMPs that will be used during the closure period, through the defined post-closure period, and a description of how the BMPs support the water management plan, and an explanation of the water conveyance systems that are planned for the cyanidation facility. (3-30-06)

f. Provide proposed post-construction topographic maps and scaled cross-sections showing the configuration of the final heap or tailing facility, including the final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and groundwaters with wastes

containing pollutants that are likely to be mobilized and discharged to waters of the state. Prior to approval of a permanent closure plan, engineering designs and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho; (3-30-06)

g. Include monitoring plans for surface and ground water during closure and post-closure periods, adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and the requirements of the chapter; (3-30-06)

h. Provide an assessment of the potential impacts to soils, vegetation, and surface and ground waters for all areas to be used for the land application system and provide a mitigation plan, as appropriate. (3-30-06)

i. Provide information on how the operator will comply with the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; Idaho Solid Waste Management Act, Chapter 74, Title 39, Idaho Code; and appropriate state rules, during operation and permanent closure; (3-30-06)

j. Provide sufficient detail to allow the operator to prepare an estimate of the reasonable costs to implement the permanent closure plan; (3-30-06)

k. Provide an estimate of the reasonable estimated costs to complete the permanent closure activities specified in the permanent closure plan in the event the operator fails to complete those activities. The estimate shall: (3-30-06)

i. Identify the incremental costs of attaining critical phases of the permanent closure plan and a proposed bond release schedule; (3-30-06)

ii. Assume that permanent closure activities will be completed by a third party whose services are contracted for by the Board as a result of a bond forfeiture under Section 47-1513, Idaho Code, and include: (3-30-06)

(1) All direct and indirect costs expected to be incurred by a third party including, but not limited to, mobilization, labor, materials, equipment, engineering, and demobilization costs; and (3-30-06)

(2) An amount acceptable to the Department but not to exceed ten percent (10%) of the total estimated closure costs, which is intended to cover costs the Department will incur in association with contract administration. (3-30-06)

l. If the proposal is to complete cyanidation facility construction, operation, and/or permanent closure activities in phases: (3-30-06)

i. Describe how these activities will be phased and how, after the first phase of activities, each subsequent phase will be distinguished from the previous phase or phases; and (3-30-06)

ii. Describe how any required post-closure activities will be addressed during and after each subsequent phase has begun. (3-30-06)

m. Provide any additional information that may be required by the Department to ensure compliance with the objectives of the permanent closure plan and the requirements of the chapter. (3-30-06)

03. Preapplication Conference. Prospective applicants are encouraged to meet with the Department well in advance of preparing and submitting an application package to discuss the anticipated application requirements and application procedures, and to arrange for a visit or visits to the proposed location of the cyanidation facility. The preapplication conference may trigger a period of collaborative effort between the Department, the DEQ, and the applicant in developing checklists to be used by the agencies in reviewing an application for completion, accuracy, and protectiveness. (3-30-06)

04. Application Package for Permanent Closure. An application and its contents submitted to the

Department shall be used to determine whether an applicant can complete all permanent closure activities in conformance with all applicable state laws. An application must provide information in sufficient detail to allow the director to make necessary application review decisions regarding cyanidation facility closure and protection of public health, safety, and welfare, in accordance with the chapter. Five (5) copies of the application package must be submitted to the Department. A complete application package for an operator proposing to use cyanidation shall consist of: (3-30-06)

a. A Department application form completed, signed, and dated by the applicant. This form shall contain the following information: (3-30-06)

i. Name, location, and mailing address of the cyanidation facility; (3-30-06)

ii. Name, mailing address, and phone number of the operator. An out-of-state operator shall designate an in-state agent authorized to act on his behalf. In case of an emergency that requires actions to prevent environmental damage, both the operator and his agent will be notified; (3-30-06)

iii. Land ownership status (federal, state, private or public); (3-30-06)

iv. The legal description to the quarter-quarter section of the location of the proposed cyanidation facility; and (3-30-06)

v. The legal structure (corporation, partnership, etc.) and primary place of business of the operator. (3-30-06)

b. Evidence that the applicant is authorized by the Secretary of State to conduct business in the state of Idaho; (3-30-06)

c. A permanent closure plan as prescribed in Subsection 071.02; (3-30-06)

d. The DEQ application and supporting materials; (3-30-06)

e. The five thousand dollar ($5,000) application processing and review fee, as defined in Subsection 071.05.a. (3-30-06)

05. **Application Fee**. The application fee shall consist of two (2) parts: (3-30-06)

a. Processing and review fee. (3-30-06)

i. The applicant shall pay a nonrefundable five thousand dollar ($5,000) fee upon submission of an application. Within thirty (30) days of receiving an application and this fee, the director shall provide a detailed cost estimate to the operator which includes a description of the scope of the Department's review; the assumptions on which the Department's estimate is based; and an itemized accounting of the anticipated number of labor hours, hourly labor rates, travel expenses and any other direct expenses the Department expects to incur, and indirect expenses equal to ten percent (10%) of the Department's estimated direct costs, as required to satisfy its statutory obligation pursuant to the chapter. (3-30-06)

ii. If the Department's estimate is greater than five thousand dollars ($5,000), the applicant may agree to pay a fee equal to the difference between five thousand dollars ($5,000) and the Department's estimate, or may commence negotiations with the Department to establish a reasonable fee. (3-30-06)

iii. If, within twenty (20) days from issuance of the Department's estimate, the Department and applicant cannot agree on a reasonable application processing and review fee, the applicant may appeal to the Board. The Board shall: (3-30-06)

(1) Review the Department's estimate; (3-30-06)

(2) Conduct a hearing where the applicant is allowed to give testimony to the Board concerning the

Department's estimate; and (3-30-06)

(3) Establish the amount of the application review and processing fee. (3-30-06)

iv. If the fee is more than five thousand dollars ($5,000), the applicant shall pay the balance of the fee within fifteen (15) days of the Board's decision or withdraw the application. (3-30-06)

v. Nothing in this section shall extend the time in which the Board must act on a plan submitted. (3-30-06)

b. Permanent closure cost estimate verification fee. (3-30-06)

i. Pursuant to Sections 47-1506(g) and 47-1513(j), Idaho Code, the Department may employ a qualified independent party, acceptable to the operator and the Board, to verify the accuracy of the permanent closure cost estimate. (3-30-06)

ii. The applicant shall be solely responsible for paying the Department's cost to employ a qualified independent party to verify the accuracy of the permanent closure cost estimate. The applicant may participate in the Department's processes for identifying qualified parties and selecting a party to perform this work. (3-30-06)

iii. If a federal agency has responsibility to establish the bond amount for permanent closure of a cyanidation facility on federal land, the Department may employ the firm retained by the federal agency to verify the accuracy of the permanent closure cost estimate. If the director chooses not to employ the firm retained by the federal agency, he shall provide a written justification explaining why the firm was not employed. (3-30-06)

072. -- 079. (RESERVED)

080. PROCEDURES FOR REVIEW AND DECISION UPON AN APPLICATION TO PERFORM SURFACE MINING, RECLAMATION, AND ORE PROCESSING USING CYANIDE.

01. Return of Application. (3-30-06)

a. Surface mining reclamation. Within thirty (30) days after receipt of a reclamation plan by the Department, an application for surface mining reclamation may be returned for correction and resubmission if either the reclamation plan or mine map(s) are incomplete. Return of an application by the director shall constitute a rejection in accordance with Section 47-1507(b), Idaho Code. (3-30-06)

b. Permanent closure plans for cyanidation facilities. Within thirty (30) days after receipt of a permanent closure plan by the Department, an application for permanent closure of a cyanidation facility may be returned for correction and resubmission, if the permanent closure plan does not meet the requirements of Section 071 of these rules. Return of an application by the director shall constitute a rejection in accordance with Section 47-1507(b), Idaho Code. (3-30-06)

02. Agency Notification and Comments. (3-30-06)

a. Nonconfidential materials submitted under Sections 069, 070, and 071 shall be forwarded by the director to the Idaho Departments of Water Resources, Environmental Quality, and Fish and Game for review and comment. The director may decide not to circulate applications submitted under Section 069 if the director determines the impacts of the proposed activities are minor and do not involve surface waters. The director may provide public notice on receipt of a reclamation plan or permanent closure plan. In addition, nonconfidential contents of an application will be provided to individuals who request the information in writing, as required by the Idaho Public Records Act. (3-30-06)

b. Upon receipt of a complete application for reclamation of surface-mined areas or permanent closure of a cyanidation facility, the director shall provide notice to the cities and counties where the surface mining or cyanidation facility operation is proposed, in accordance with Section 47-1505(7), Idaho Code. The notice shall include the name and address of the operator, the procedure and schedule for the Department's review, and an

invitation to review nonconfidential portions of the application, if requested in writing. Such notice will be provided upon receipt of a reclamation plan, a permanent closure plan, or an amended or supplemental plan for an existing operation, or an amended cost estimate to complete permanent closure of a cyanidation facility, if required under the chapter and these rules.. (3-30-06)

03. Decision on Reclamation Plans. The director shall review a new reclamation plan or an amended or supplemental reclamation plan pursuant to Sections 47-1507 and 47-1508, Idaho Code. (3-30-06)

a. Approval. (3-30-06)

i. Within sixty (60) days of receipt of an application that complies with Subsections 069 and 070 of these rules, the Department shall provide written notice to the applicant that the reclamation plan or any amendment(s) or supplementary plan(s) to an approved reclamation plan is approved or denied and, if approved, the amount of the reclamation bond required; or (3-30-06)

ii. If the director does not take action within sixty (60) days, a reclamation plan or any amendments or supplementary plans thereof shall be deemed to comply with the chapter, unless the sixty (60) day time period is extended pursuant to Section 47-1512(c), Idaho Code. (3-30-06)

iii. The operator and director may agree, in writing, to implement additional actions with respect to reclamation that extend beyond the requirements set forth in these rules. (3-30-06)

b. Inspections. The director may determine that an inspection of the proposed surface mining site location is necessary if the inspection will provide additional information or otherwise aid in processing of the application. (3-30-06)

i. If the director decides to perform an inspection, the applicant will be contacted and asked that he or an authorized employee or agent be present. This rule shall not prevent the Department from making an inspection of the site if the applicant does not appear. (3-30-06)

ii. If weather conditions preclude an inspection of a proposed surface mining operation, the director shall provide written notice to the applicant that review of the reclamation plan or an amended or supplementary plan has been suspended until weather conditions permit an inspection, and that the schedule for a decision shall be extended for up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-1512(c), Idaho Code. (3-30-06)

04. Decision on Cyanidation Facility Permanent Closure Plans. Pursuant to Sections 47-1507 and 47-1508, Idaho Code, following review of a complete application, the director shall: (3-30-06)

a. Coordination with DEQ. Initiate a coordinated interagency review of the application by providing a notice in writing to the DEQ director that the Department has received an application for permanent closure of a cyanidation facility; (3-30-06)

b. Approval. (3-30-06)

i. Within one-hundred eighty (180) days of receipt of an application that complies with Subsection 071.04 of these rules, the Department shall provide written notice to the applicant that the permanent closure plan is approved or denied and, if approved, the amount of the permanent closure bond required; or (3-30-06)

ii. If the director does not take action within one-hundred eighty (180) days, a permanent closure plan, or any amendments or supplementary plans thereof, shall be deemed to comply with the provisions of the chapter, unless the one hundred eighty (180) day time period shall be extended in accordance with Section 47-1512(d), Idaho Code. (3-30-06)

c. Inspections. The director may determine that it is necessary to inspect the proposed cyanidation facility location if the inspection will provide additional information or otherwise aid in processing of the application. (3-30-06)

i. If the director determines to inspect the site, the applicant will be contacted and asked that he or an authorized employee or agent be present. The Department may proceed with an inspection if the applicant or his designated employee or agent does not appear. (3-30-06)

ii. If weather conditions preclude an inspection of the proposed cyanidation facility, the director shall provide written notice to the applicant that processing of the application has been suspended until weather conditions permit an inspection, and that the schedule for a decision shall be extended for up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-1512(d), Idaho Code. (3-30-06)

05. Nonpoint Source Pollution. When the director determines, after consultation with the DEQ, that there is a reasonable potential for nonpoint source pollution of adjacent surface and ground waters, the director shall require the operator to provide baseline preproject surface and ground water monitoring information, and furnish additional monitoring data during the life of the project. This provision shall not require any additional baseline preproject monitoring information or ongoing monitoring data where such data is already required to be provided under any federal or state law and is available to the director. (3-30-06)

06. Permanent Closure Plan Approval. (3-30-06)

a. The Department may condition its approval on issuance of a permit by the DEQ for the cyanidation facility. (3-30-06)

b. Except for the concurrent and additional permanent closure requirements that may be established in a permit issued by the DEQ pursuant to Section 39-118A, Idaho Code and IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," an approved permanent closure plan shall define the nature and extent of the operator's obligation under the chapter. (3-30-06)

c. The permanent closure plan, as approved by the Department in coordination with the DEQ, shall be incorporated by reference into the cyanidation facility permit issued by DEQ as a permit condition and shall be enforceable as such. The operator shall ensure that closure complies with the approved plan and any additional permanent closure requirements as outlined in the permit issued by DEQ. (3-30-06)

d. No sooner than one hundred and twenty (120) days after an application for a permanent closure plan has been submitted to the Department, the applicant may submit a reclamation plan as required by Section 070 of these rules. The Department will review and approve the reclamation plan in accordance with Subsection 080. (3-30-06)

e. Approval of a permanent closure plan by the Department is required even if approval of such plan has been or will be obtained from an appropriate federal agency. (3-30-06)

07. Denial of an Application. If the director rejects an application, the director shall deliver in writing to the applicant a statement of the reasons the application has been rejected, the factual findings upon which the rejection is based, a statement of the applicable statute(s) and rule(s), the manner in which the application failed to fulfill the requirements of these rules, and the action that must be taken or conditions that must be satisfied to meet the requirements of the chapter and these rules. The applicant may submit an amended application in accordance with Sections 069, 070 or 071 for review and, if appropriate, approval by the Department. The director shall deny a reclamation plan, permanent closure plan, or any amendments or supplementary plans thereof if: (3-30-06)

a. The application is inaccurate or incomplete; (3-30-06)

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure to protect public safety, health, and welfare, in accordance with the scope and intent of these rules, or to protect beneficial uses of the waters of the state, as determined by the DEQ pursuant to Section 39-118A, Idaho Code and IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation" and other DEQ rules cited therein. (3-30-06)

08. Public Hearing. The director may call a public hearing to determine whether a proposed application complies with the chapter and these rules. A hearing shall be conducted in accordance with Section 110.

(3-30-06)

09. Referral to Board. The director may refer the decision concerning an application to the Board. This action will not extend the time period for a decision to approve or deny an application. (3-30-06)

10. Appeal of Final Order. Any final order of the Board regarding an application for a surface mining reclamation plan or for permanent closure of a cyanidation facility may be appealed as set forth in Section 47-1514, Idaho Code. (3-30-06)

081. -- 089. (RESERVED)

090. AMENDING AN APPROVED RECLAMATION PLAN.

01. Cause for Reclamation Plan Amendment. In the event circumstances arise that necessitate amendments to an approved reclamation plan, the operator shall submit an application to amend the plan and state the reasons the amendment is necessary. Either the operator or the director may initiate a process to amend an approved reclamation plan. If the director identifies a material change he believes requires a change in the reclamation plan, the director must deliver in writing to the operator a detailed statement identifying the material change and the action(s) necessary to address the material changes. (3-30-06)

02. Review of Amendment. The director will process an application to amend a plan in accordance with Sections 080 and 110, provided, however, that no land or aspect or provision of an approved reclamation plan that would not be affected by the proposed amendment, shall be subject to the amendment, review or reapproval in connection with processing the application. Approval of an amendment shall not be conditioned upon the performance of any actions not required by the approved reclamation plan or the proposed amendment itself, unless the operator agrees to perform such actions. (3-30-06)

03. Minor Amendments. Minor amendments to an approved reclamation plan may be made by agreement between the director and the operator, if the amendment is consistent with the overall objectives of the approved reclamation plan and so long as water quality standards will be met and existing beneficial uses will be protected. (11-1-89)

091. AMENDING AN APPROVED PERMANENT CLOSURE PLAN.

01. Cause for Permanent Closure Plan Amendment. In the event circumstances arise that necessitate amendments to an approved permanent closure plan, the operator shall submit an application to amend the permanent closure plan and state the reasons the amendment is necessary. Either the operator or the director may initiate a process to amend an approved permanent closure plan. Circumstances that could require a permanent closure plan to be amended include: (3-30-06)

a. A material modification or material expansion in the cyanidation facility design or operation for which the approved permanent closure plan is no longer adequate. (3-30-06)

b. Conditions substantially different from those anticipated in the original permit for which the approved permanent closure plan is no longer adequate. (3-30-06)

c. A material change as defined in Subsections 010.20.b.i. and 010.20.b.ii. of these rules. (3-30-06)

02. Modifications at an Operator's Request. Requests from an operator to modify a permanent closure plan shall be submitted to the Department in writing. The director shall process an application for amendment in accordance with Section 080. An application to amend a permanent closure plan shall include: (3-30-06)

a. A written description of the circumstances that necessitate the amendment; (3-30-06)

b. Data supporting the request; (3-30-06)

c. The proposed amendment; (3-30-06)

d. A description of how the amendment will impact the estimated cost to complete permanent closure pursuant to the chapter; (3-30-06)

e. A cost estimate to implement the amended permanent closure plan, prepared in accordance with Subsection 071.02 of these rules; and (3-30-06)

f. Payment of a reasonable fee as may be determined by the director in accordance with Section 47-1512, Idaho Code. (3-30-06)

03. Modification at Request of Director. If, following consultation with the DEQ, the director determines that cause exists to amend the permanent closure plan the director shall notify the operator in writing of his determination and explain the circumstances that have arisen which require the permanent closure plan to be amended. Within thirty (30) days or as agreed by the operator and the Department, the operator shall submit an application to amend the permanent closure plan in accordance with Subsection 091.02. (3-30-06)

04. Minor Amendments. Minor amendments to an approved permanent closure plan may be made by agreement between the director and the operator, if the amendment is consistent with the overall objectives of the approved permanent closure plan and so long as water quality standards will be met and existing beneficial uses will be protected. (3-30-06)

092. -- 099. (RESERVED)

100. DEVIATION FROM AN APPROVED RECLAMATION PLAN.

01. Unforeseen Events. If a surface mining operator finds that unforeseen events or unexpected conditions require immediate change from an approved plan, the operator may continue surface mining in accordance with the procedures dictated by the changed conditions, pending submission and approval of an amended plan, even though operations do not comply with the approved reclamation plan on file with the Department. This shall not excuse the operator from complying with the requirements of Sections 140 and 120. (3-30-06)

02. Notification. The operator shall notify the director, in writing, within ten (10) days of the discovery of conditions that require deviation from the approved plan. A proposed amendment to the plan shall be submitted by the operator within thirty (30) days of the discovery of those conditions. (3-30-06)

101. -- 109. (RESERVED)

110. PUBLIC HEARING.

01. Call for a Hearing. A public hearing called by the director following receipt of a complete application submitted in accordance with Sections 069, 070, or 071 shall be conducted in accordance with Section 47-1507(d), Idaho Code. The director may call for a hearing following his preliminary review of an application for a new operation or a supplemental application of an existing operation when one (1) or more of the following circumstances arises: (3-30-06)

a. Public Concern. The public, potentially affected landowners, any governmental entity, or any other interested parties who may be affected by the operations proposed under the chapter have registered, in writing, a concern with the director regarding the proposed operations or cyanidation facility. The purpose of the public hearing shall be to gather written and oral comments as to whether the proposed reclamation plan or permanent closure plan meets the requirements of the chapter and these rules. (3-30-06)

b. Agency Concern. The director determines, after consultation with the Department of Water Resources, DEQ, the Department of Fish and Game, and affected Indian tribes that the proposed surface mining or cyanidation facility operations could reasonably be expected to significantly degrade adjacent surface and/or ground waters or otherwise threaten public health, safety or welfare. The purpose of a public hearing held under this subsection will be to receive written and oral comments on the measures the operator is proposing to use to protect surface and/or ground water quality from nonpoint source pollution. (3-30-06)

02. Consolidation. If the director determines that a hearing should be held, he shall order that such proceedings be consolidated. The applicant and the public must be advised of the specific subjects to be discussed at the hearing at least twenty (20) days prior to the hearing. The Department will coordinate with the DEQ, as appropriate, for any hearings relating to permanent closure of a cyanidation facility to streamline application processing. (3-30-06)

03. Location. A hearing shall be held in the locality of the proposed surface mine or a proposed cyanidation facility at a reasonably convenient time and place for public participation. The director may call for more than one hearing when conditions warrant. (3-30-06)

04. Notice of Hearing. The director shall provide at lease twenty (20) days' advance notice of the date, time, and place of the hearing to: federal, state, and local governmental agencies, Indian tribes who may have an interest in the decision as shown on the application, and the public; to all persons who petitioned for a hearing; and to any person identified by the applicant under Subsection 070.02 as a legal owner of the land that will likely be affected by the proposed operations. Notice to the applicant must be sent by certified mail and postmarked not less than twenty (20) days before the scheduled public hearing date. (3-30-06)

05. Publication of Notice. The director shall provide at least twenty (20) days advance notice to the general public of the date, time, and place of the hearing. A newspaper advertisement will be placed once a week, for two (2) consecutive weeks, in the locale of the area covered by the application. (11-1-89)

a. In the event a hearing is ordered under Section 110, the notice shall describe: (3-30-06)

i. The potentially significant surface water quality impacts from the proposed surface mining operation and the operator's description of the measures that will be used to prevent degradation of adjacent surface and ground waters from nonpoint sources of pollution; or (3-30-06)

ii. The objectives of a permanent closure plan that have been submitted for review. (3-30-06)

b. A copy of the application shall be placed for review in a public place in the local area of the proposed surface mining operation or cyanidation facility, in the closest Department area office, and the Department's administrative office in Boise. (3-30-06)

06. Hearing Officer. The hearing shall be conducted by the director or his designated representative. Both oral and written testimony will be accepted. Proceedings of the hearing will be recorded on audio tape and a verbatim transcript will be prepared. (3-30-06)

07. Consideration of Hearing Record. The Department shall consider the hearing record when reviewing reclamation plans or permanent closure plans for final approval or rejection. (3-30-06)

111. COMPLETION OF PERMANENT CLOSURE.

01. Implementation of a Permanent Closure Plan. Unless otherwise specified in the approved permanent closure plan, an operator must begin implementation of the approved permanent closure plan. (3-30-06)

a. Within one (1) year of the final addition of new cyanide to the ore process circuit for small cyanidation processing or pilot facilities; or (3-30-06)

b. Within two (2) years of the final addition of new cyanide to the ore process circuit for all other cyanidation facilities; or (3-30-06)

c. If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. (3-30-06)

02. Submittal of a Permanent Closure Report. The operator shall submit a permanent closure report to the Department for review and approval. A permanent closure report shall be of sufficient detail for the directors of

the Department and DEQ to issue a determination that permanent closure, as defined by Subsection 010.33, has been achieved. The permanent closure report shall address: (3-30-06)

a. The effectiveness of material stabilization. (3-30-06)

b. The effectiveness of the water management plan and the adequacy of the monitoring plan. (3-30-06)

c. The final configuration of the cyanidation facility and its operational/closure status. (3-30-06)

d. The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities. (3-30-06)

e. The operational/closure status of any land application site of the cyanidation facilities. (3-30-06)

f. Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short- and long-term discharge of pollutants from the cyanidation facility, unless otherwise permitted. (3-30-06)

g. The short- and long-term water quality trends in surface and ground water through the statistical analysis of the existing monitoring data pursuant to the ore-processing by cyanidation permit. (3-30-06)

h. Ownership and responsibility for the site upon permanent closure during the defined post-closure period. (3-30-06)

i. The future beneficial uses of the land, surface and ground waters in and adjacent to the closed cyanidation facilities. (3-30-06)

j. How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. (3-30-06)

112. DECISION TO APPROVE OR DISAPPROVE OF A PERMANENT CLOSURE REPORT.

01. Receipt of a Permanent Closure Report. Within sixty (60) days of receipt of a permanent closure report, the director shall issue to the operator a director's determination of approval or disapproval of the permanent closure report. (3-30-06)

02. Permanent Closure Report Is Disapproved. The director's determination to approve or disapprove a permanent closure report shall be based on the permanent closure report's demonstration that permanent closure has resulted in long-term neutralization of process waters and material stabilization. If a permanent closure report is disapproved, the director shall provide in writing identification of: (3-30-06)

a. Errors or inaccuracies in the permanent closure report. (3-30-06)

b. Issues or details which require additional clarification. (3-30-06)

c. Failures to fully implement the approved permanent closure plans. (3-30-06)

d. Failures to ensure protection for public health, safety, and welfare or to prevent degradation of waters of the state. (3-30-06)

e. Outstanding violations or other noncompliance issues. (3-30-06)

f. Other issues supporting the Department's disagreement with the contents, final conclusions or recommendations of the permanent closure report. (3-30-06)

113. -- 119. (RESERVED)

120. PERFORMANCE BOND REQUIREMENTS FOR SURFACE MINING.

01. Submittal of Bond Before Surface Mining. Prior to beginning any surface mining on a mine panel covered by a plan, an operator shall submit to the director, on a surface mining reclamation bond form, a performance bond meeting the requirements of this rule. The amount shall be the amount necessary to pay the estimated reasonable costs of reclamation required under the reclamation plan for each acre of land to be affected during the first year of operation, plus ten (10%) percent. No performance bond shall exceed two thousand five hundred ($2,500) for a given acre of affected land unless: (3-30-06)

a. The Board has determined that such performance bond is necessary to meet the requirements of Sections 47-1506, 47-1509, 47-1510, and 47-1511, Idaho Code. (3-30-06)

b. The Board has delivered to the operator, in writing, a notice setting forth the reasons it believes such bond is necessary. (7-1-98)

c. The Board has conducted a hearing where the operator is allowed to give testimony to the Board concerning the amount of the proposed bond, as provided by Section 47-1512(c), Idaho Code. This requirement for a hearing may be waived, in writing, by the operator. (3-30-06)

02. Mining Operation Conducted by Public or Government. Notwithstanding any other provision of law to the contrary, the bonding provisions of the chapter and these rules shall not apply to any surface mining operations conducted by a public or governmental agency for maintenance, repair, or construction of a public highway. (3-30-06)

03. Limits. Only surface mining reclamation bonds obtained after January 1, 1997, may be assessed at actual costs plus ten percent (10%), not to exceed two thousand five hundred dollars ($2,500) per acre except as provided by the chapter, or if a material change as defined by Subsection 010.20 of these rules. Any revision to the amount, term and conditions of a performance bond due to a material change shall apply only to the affected lands covered by the material change. (3-30-06)

04. Annual Bond Review. At the beginning of each calendar year, the operator shall notify the director of any increase in the acreage of affected land which will result from planned surface mining activity within the next twelve (12) months. A commensurate increase in the bond will be required for an increase in affected acreage. Any additional bond required shall be submitted on the appropriate bond form within ninety (90) days of operator's receipt of notice from the Department that an additional bond amount is required. In no event shall surface mining operations be conducted that would affect additional acreage until the appropriate bond form and bond has been with the Department. Acreage on which reclamation is complete shall be reported in accordance with Subsection 120.07 and after release of this acreage from the plan by the director, the bond may be reduced by the amount appropriate to reflect the completed reclamation. (3-30-06)

05. Bond Provided to the Federal Government. Any bond provided to the federal government that also meets the requirements of Section 120 shall be sufficient for the purposes of these rules. (3-30-06)

06. Bond Reduction. (11-1-89)

a. Upon finding that any land bonded under a reclamation plan will not be affected by mining, the operator shall notify the director. The amount of the bond shall be reduced by the amount being held to reclaim those lands. (11-1-89)

b. Any request for bond reduction shall be answered by the director within thirty (30) days of receiving such request unless weather conditions prevent inspection. (11-1-89)

07. Bond Release. Upon completion of the reclamation specified in the plan, the operator shall notify the director of his desire to secure release from bonding. When the director has verified that the requirements of the reclamation plan have been met as stated in the plan, the bond shall be released. (11-1-89)

a. Any request for bond release shall be answered by the director within thirty (30) days of receiving such request unless weather conditions prevent inspection. (11-1-89)

b. If the director finds that a specific portion of the reclamation has been satisfactorily completed, the bond may be reduced to the amount required to complete the remaining reclamation. The following schedule will be used to complete these bond reductions unless the director determines in a specific case that this schedule is not appropriate and specifies a different schedule: (11-1-89)

i. Sixty percent (60%) of the bond may be released when the operator completes the required backfilling, regrading, topsoil replacement, and drainage control of the bonded area in accordance with the approved reclamation plan; and (11-1-89)

ii. After revegetation activities have been performed by the operator on the regraded lands, according to the approved reclamation plan, the Department may release an additional twenty-five percent (25%) of the bond. (11-1-89)

c. The remaining bond shall not be released: (11-1-89)

i. As long as the affected lands are contributing suspended solids to surface waters outside the affected area in excess of state water quality standards and in greater quantities than existed prior to the commencement of surface mining operations; (11-1-89)

ii. Until final removal of equipment and structures related to the mining activity or until any remaining equipment and structures are brought under an approved reclamation plan and bond by a new operator; and (11-1-89)

iii. Until all temporary sediment or erosion control structures have been removed and reclaimed or until such structures are brought under an approved reclamation plan and bond by a new operator. (11-1-89)

08. Cooperative Agreements. The director may through private conference, conciliation, and persuasion reach a cooperative agreement with the operator to correct deficiencies in complying with the reclamation plan and thereby postpone action to forfeit the bond and cancel the reclamation plan if all deficiencies are satisfactorily corrected within the time specified by the cooperative agreement. (11-1-89)

09. Bonding Rate. An operator may petition the director for a change in the initial bond rate. The director will review the petition, and if satisfied with the information presented, a special bond rate will be set based upon the estimated cost that the director would incur should a forfeiture of bond occur and it became necessary for the director, through contracting with a third party, to complete reclamation to the standards established in the plan. (11-1-89)

10. Liabilities for Unbonded Reclamation Costs. An operator who: (11-1-89)

a. Departs from his approved reclamation plan by performing an act or omission and such deviation is not subsequently approved; (11-1-89)

b. Does not furnish a bond required by these rules; and (11-1-89)

c. Is not required to furnish a bond by these rules, but fails to reclaim; is in violation of these rules and may be subject to civil penalty under Section 47-1513(c), Idaho Code. The amount of civil penalty shall be the estimated cost of reasonable reclamation of affected lands as determined by the director. Reasonable reclamation of the site shall be presumed to be in accordance with the standards established in the approved reclamation plan. The amount of the civil penalty shall be in addition to those described in Subsection 160.06. (11-1-89)

121. PERFORMANCE BOND REQUIREMENTS FOR CYANIDATION FACILITIES.

01. Submittal of Bond Before Operating a Cyanidation Facility. Prior to beginning construction or

operation of a cyanidation facility, but no later than ninety (90) days after approval of a permanent closure plan, an operator shall submit to the director, on a permanent closure plan bond form, a performance bond meeting the requirements of Section 47-1512(a)(2), Idaho Code. The performance bond shall be in an amount equal to the total costs estimated under subsection 071.02.k. of these rules plus ten percent (10%). Upon application to the Department, the operator may apply and the director may approve bonding for each phase of closure on an incremental basis. If the Department authorizes phased bonding, then bonding may increase incrementally commensurate with the additional permanent closure liability. After construction and operation of the initial phase of a cyanidation facility has commenced and after filing by an operator of the initial permanent closure bond, an operator shall not construct any component of a subsequent phase or phases of the subject cyanidation facility before filing the additional permanent closure bond amount that may be required by the Board. If phased bonding is not authorized, the operator shall be required to file the bond amount required to complete permanent closure of all planned phases prior to any construction. (3-30-06)

02. Limits. The Board may require a bond in excess of five million dollars ($5,000,000) if the following conditions have been met: (3-30-06)

a. The Board has determined that such a performance bond is necessary to meet the requirements of the chapter; (3-30-06)

b. The Board has delivered to the operator, in writing, a notice explaining the reasons such a performance bond is necessary; and (3-30-06)

c. The operator is allowed to give testimony to the Board concerning the amount of the proposed bond, as provided by Section 47-1512(d)(3), Idaho Code. This requirement for a hearing may be waived, in writing, by the operator. (3-30-06)

03. Other Government Agency Bonds. Upon a finding by the director that the bond amount established by a federal agency is inadequate because it has not included one (1) or more permanent closure tasks required by the state, the Department may require the operator to file an additional bond amount, as necessary, to satisfy the requirements of the chapter. (3-30-06)

04. Bond Review. The Department shall periodically review all performance bonds filed for permanent closure to determine their sufficiency to complete the work required by an approved permanent closure plan. (3-30-06)

a. Once every three (3) years, the operator shall submit an updated permanent closure cost estimate to the Department for review. The director will review the updated estimate to determine whether the existing bond amount is adequate to implement the permanent closure plan, as approved by the Department. Any resulting change in the bond amount does not in and of itself require an amendment to the permanent closure plan as may be required by Section 091 of these rules. The director will review the estimate to determine whether the existing bond amount is adequate to complete permanent closure of the cyanidation facility. (3-30-06)

b. When the director determines that there has been a material change in the estimated reasonable costs to complete permanent closure: (3-30-06)

i. The director shall notify the operator in writing of his intent to reevaluate the performance bond amount. Within a reasonable time period determined by the Department, the operator shall provide to the Department a revised cost estimate to complete permanent closure as approved by the Department. (3-30-06)

ii. Within thirty (30) days of receipt of the revised cost estimate the director shall notify the operator in writing of his determination of bond adequacy. (3-30-06)

iii. Within ninety (90) days of notification of the director's assessment, the operator shall make the appropriate adjustment to the bond or the director will reduce the bond as appropriate. (3-30-06)

c. The Department may conduct an internal review of the amount of each bond annually to determine whether it is adequate to complete permanent closure. (3-30-06)

d. For bond reviews conducted pursuant to Subsections 121.04.a. and 121.04.b., the director may employ a qualified independent party to verify the accuracy of the revised estimated costs to complete permanent closure. The qualified independent party shall be employed and the operator shall pay a reasonable fee pursuant to Subsection 071.05.b. (3-30-06)

05. Bond Reduction. A performance bond for permanent closure may be reduced if, during the Department's review of the performance bond pursuant to Subsection 121.04, the estimated costs to complete permanent closure of the subject cyanidation facility will be lower than the amount bonded at that time. (3-30-06)

06. Bond Release. (3-30-06)

a. A bond filed for permanent closure of a cyanidation facility shall be released according to the schedule in the permanent closure plan. The schedule shall include provisions for the release of the post closure monitoring and maintenance portions of the bond. The schedule may be adjusted to reflect the operator's performance of permanent closure activities and their demonstrated effectiveness. (3-30-06)

b. Upon completion of an activity required by an approved permanent closure plan, the operator may request in writing a bond reduction for that activity. When the director, in consultation with DEQ, has verified that the activity meets the requirements of the permanent closure plan, the bond shall be reduced by an amount to reflect the activity completed. (3-30-06)

c. Upon the director's determination that all activities specified in the permanent closure plan have been successfully completed, the Department will, in accordance with Section 47-1512(i), Idaho Code, release the balance remaining after partial bond releases. (3-30-06)

07. Liabilities for Unbonded Permanent Closure Costs. An operator who is in violation of the chapter or any provision of these rules may be subject to civil penalties under Section 47-1513(f), Idaho Code. (3-30-06)

122. FORM OF PERFORMANCE BOND.

01. Corporate Surety Bond. A corporate surety bond is an indemnity agreement executed for the operator and a corporate surety licensed to do business in the state of Idaho, filed on the appropriate bond form supplied by the director. The bond shall be payable to the state of Idaho and conditioned to require the operator to faithfully perform all requirements of the chapter, and the rules in effect on the date that a reclamation plan or a permanent closure plan was approved by the Department. (3-30-06)

02. Collateral Bond. A collateral bond is an indemnity agreement executed by or for the operator, payable to the state of Idaho, pledging cash deposits, government securities or negotiable certificates of deposit of any financial institution authorized to do business in the state. Collateral bonds shall be subject to the following conditions. (3-30-06)

a. The director shall obtain possession of a collateral bond and, upon receipt, deposit it with the state treasurer to hold it in trust for the purpose of bonding reclamation or permanent closure performance. (3-30-06)

b. The director shall value the collateral at its current market value, not its face value. (3-30-06)

c. Certificates of deposit shall be issued or assigned, in writing, to the state of Idaho and upon the books of the financial institution issuing such certificates. Interest will be allowed to accrue and may be paid by the bank, upon demand, to the operator or another person who posted the collateral bond. (3-30-06)

d. Amount of an individual certificate shall not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors. (3-30-06)

e. Financial institutions issuing such certificates shall waive all rights of set-off or liens which it has or might have against such certificates. (3-30-06)

f. Certificates of deposit shall be automatically renewable. (3-30-06)

g. Certificates of deposit shall be of sufficient amount to ensure that the director could liquidate them before maturity upon forfeiture for the required bond amount, including any penalty for early withdrawal. (3-30-06)

03. Letters of Credit. A letter of credit is an instrument executed by a bank doing business in Idaho, made at the request of a customer. A letter of credit states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit. Letters of credit shall be subject to the following conditions. (3-30-06)

a. All credits shall be irrevocable and prepared in a format prescribed by the director. (3-30-06)

b. All credits must be issued by an institution authorized to do business in the state of Idaho or through a correspondent bank authorized to do business in the state of Idaho. (3-30-06)

c. The account party on all credits must be identical to the entity identified in the reclamation plan or in the permanent closure plan and on the cyanidation facility permit as the party obligated to complete reclamation or permanent closure. (3-30-06)

04. Blanket Bond. Where an operator is involved in more than one (1) surface mining operation permitted by the Department or more than one (1) cyanidation facility operation permitted by the DEQ and for which a permanent closure bond is required, the director may accept a blanket bond in lieu of separate reclamation or permanent closure bonds under the approved plans. The amount of such bond shall be equal to the total of the requirements of the separate bonds being combined into a single bond, as determined pursuant to Section 47-1512, Idaho Code, and in accordance with Sections 120 and 121 of these rules. The bonded principal shall be liable for an amount no more than the bond filed for completion of reclamation activities or permanent closure activities if the Department takes action against the bond pursuant to Section 47-1513, Idaho Code and Section 123 of these rules. (3-30-06)

05. Notice of Cancellation. Any notice of cancellation by a surety company shall comply with the provisions of Section 47-1512(f), Idaho Code. (3-30-06)

06. Revocation of Surety License. If a surety's Idaho business license is suspended or revoked, the operator shall comply with the provisions of Section 47-1512(g), Idaho Code. (3-30-06)

123. FORFEITURE OF BOND.
A bond may be forfeited in accordance with Section 47-1513, Idaho Code, when the operator has not conducted the reclamation or has not conducted permanent closure in accord with an approved plan and the applicable requirements of these rules. (3-30-06)

124. -- 129. (RESERVED)

130. TRANSFER OF APPROVED PLANS.

01. Reclamation Plans. A reclamation plan may be transferred from one (1) operator to another after the Department's approval. To complete a transfer, the new applicant must file a notarized assumption of reclamation plan form as prescribed by the Department. The new operator then shall be responsible for the past operator's obligations under the chapter, these rules, and the reclamation plan. When a replacement bond is submitted relative to an approved surface mining reclamation plan, the following rider must be filed with the Department as part of the replacement bond before the existing bond will be released: "[Surety company or principal] understands and expressly agrees that the liability under this bond shall extend to all acts for which reclamation is required on areas disturbed in connection with surface mining reclamation plan [number], both prior to and subsequent to the date of this rider." (3-30-06)

02. Permanent Closure Plans. An approved permanent closure plan permit may be transferred to a new operator if he provides written notice to the director that includes a specific date for transfer of permanent closure responsibility, coverage, and liability between the old and new operators no later than ten (10) days after the date of closure. An operator shall be required to provide such notice at the same time he provides notice to the DEQ

as required IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation." To complete a transfer, the new applicant must: (3-30-06)

a. File a notarized assumption of permanent closure plan form as prescribed by the Department; and (3-30-06)

b. File a replacement permanent closure bond on a form approved by the Department must be filed with the Department as part of the replacement bond before the existing bond will be released. The following rider must be filed as part of the replacement bond before the existing bond will be released: "[Surety company or principal] understands and expressly agrees that the liability under this bond shall extend to all acts for which permanent closure activities must be completed in connection with permanent closure plan [number], both prior to and subsequent to the date of this rider." (3-30-06)

131. -- 139. (RESERVED)

140. BEST MANAGEMENT PRACTICES AND RECLAMATION FOR SURFACE MINING OPERATION AND PERMANENT CLOSURE OF CYANIDATION FACILITIES.
Enumeration of a practice or act in Section 140 shall not be construed to require its specific inclusion in a reclamation or permanent closure plan. (3-30-06)

01. Nonpoint Source Control. (3-30-06)

a. Appropriate BMPs for nonpoint source controls shall be designed, constructed, and maintained with respect to site-specific surface mining operations or permanent closure activities. Operators shall utilize BMPs designed to achieve state water quality standards and to protect existing beneficial uses of adjacent waters of the state, but shall not be required to do more than is necessary to preserve the condition of runoff from the affected land or the cyanidation facility prior to conducting any exploration, surface mining or cyanidation facility operations. These measures shall be among the first to be taken, if necessary, to protect water quality. State water quality standards, including protection of existing beneficial uses, shall be the standard that must be achieved by BMPs unless the operator can show, and the director determines, that a lesser standard existed in the area to be affected prior to the commencement of the subject surface mining or exploration operations. (3-30-06)

b. If the BMPs utilized by the operator do not result in compliance with Subsection 140.01.a., the director shall require the operator to modify or improve such BMPs to meet the controlling, water quality as set forth in current laws, rules, and regulations. (3-30-06)

02. Sediment Control. In addition to proper mining techniques and reclamation measures, the operator shall take necessary steps at the close of each operating season to assure that sediment movement associated with surface runoff over the area is minimized in order to achieve water quality standards, or to preserve the condition of water runoff from the mined area prior to commencement of the subject surface mining or exploration operations, whichever is the lesser standard. Sediment control measures refer to best management practices carried out within and, if necessary, adjacent to the disturbed area and consist of utilization of proper mining and reclamation measures, as well as specific necessary sediment control methods, separately or in combination. Specific sediment control methods may include, but are not limited to: (3-30-06)

a. Keeping the disturbed area to a minimum at any given time through progressive reclamation; (3-30-06)

b. Shaping waste to help reduce the rate and volume of water runoff by increasing infiltration; (3-30-06)

c. Retaining sediment within the disturbed area; (3-30-06)

d. Diverting surface runoff around the disturbed area; (3-30-06)

e. Routing runoff through the disturbed area using protected channels or pipes so as not to increase sediment load; (3-30-06)

f. Use of riprap, straw dikes, check dams, mulches, temporary vegetation, or other measures to reduce overland flow velocities, reduce runoff volume, or retain sediment; and (3-30-06)

g. Use of adequate sediment ponds, with or without chemical treatment. (3-30-06)

03. Clearing and Grubbing. Clearing and grubbing of land in preparation for mining exposes mineral soil to the erosive effects of moving water. Operators are cautioned to keep such areas as small as possible (preferably no more than one (1) year's mining activity) as the operator shall be required to meet the applicable surface water quality standards on all such areas. Where practicable, trees and slash should be stockpiled for use in seedbed protection and erosion control. (3-30-06)

04. Overburden/Topsoil. To aid in the revegetation of affected lands where surface mining operations result in the removal of substantial amounts of overburden including any topsoil, the operator should remove the available topsoil or other growth medium as a separate operation for such area. Unless there are previously affected lands which are graded and immediately available for placement of the newly removed topsoil or other growth medium, the topsoil or other growth medium shall be stockpiled and protected from erosion and contamination until such areas become available. (3-30-06)

a. Overburden/Topsoil Removal. (11-1-89)

i. Any overburden/topsoil to be removed should be removed prior to any other mining activity to prevent loss or contamination; (11-1-89)

ii. Where overburden/topsoil removal exposes land area to potential erosion, the director, under the reclamation plan, may require BMPs necessary to prevent violation of water quality standards; and (3-30-06)

iii. Where the operator can show that an overburden material other than topsoil is conducive to plant growth, or where overburden other than topsoil is the only material reasonably available, such overburden may be allowed as a substitute for or a supplement to the available topsoil. (3-30-06)

b. Topsoil Storage. Topsoil stockpiles shall be placed to minimize rehandling and exposure to excessive wind and water erosion. Topsoil stockpiles shall be protected as necessary from erosion by use of temporary vegetation or by other methods which will control erosion, including, but not limited to, silt fences, chemical binders, seeding, and mulching. (11-1-89)

c. Overburden Storage. Stockpiled ridges of overburden shall be leveled in such a manner as to have a minimum width of ten (10) feet at the top. Peaks of overburden shall be leveled in such a manner as to have a minimum width of fifteen (15) feet at the top. The overburden piles shall be reasonably prepared to control erosion using best management practices; such activities may include terracing, silt fences, chemical binders, seeding, mulching or slope reduction. (7-1-98)

d. Topsoil Placement. Abandoned affected lands shall be covered with topsoil or other type of overburden that is conducive to plant growth, to the extent such materials are readily available, in order to achieve a stable uniform thickness. Excessive compaction of overburden and topsoil is to be avoided. Topsoil redistribution shall be timed so that seeding, or other protective measures, can be readily applied to prevent compaction and erosion. (3-30-06)

e. Fill. Backfill and fill materials should be compacted in a manner to ensure stability. (3-30-06)

05. Roads. (11-1-89)

a. Roads shall be constructed to minimize soil erosion, which may require restrictions on the length and grade of the roadbed, surfacing of roads with durable non-toxic material, stabilization of cut and fill slopes, and other techniques designed to control erosion. (3-30-06)

b. All access and haul roads shall be adequately drained. Drainage structures may include, but are not

limited to, properly installed ditches, water-bars, cross drains, culverts, and sediment traps. (11-1-89)

c. Culverts that are to be maintained for more than one (1) year shall be designed to pass peak flows from not less than a twenty (20) year, twenty-four (24) hour precipitation event and have a minimum diameter of eighteen (18) inches. (11-1-89)

d. Roads and water control structures shall be maintained at periodic intervals as needed. Water control structures serving to drain roads shall not be blocked or restricted in any manner to impede drainage or significantly alter the intended purpose of the structure. (11-1-89)

e. Roads that will not be recontoured to approximate original contours upon abandonment shall be cross-ditched and revegetated, as necessary, to control erosion. (3-30-06)

f. Roads that are not abandoned and continue to be used under the jurisdiction of a governmental or private landowner, shall comply with the nonpoint source sediment control provisions of Subsection 140.02 until the successor assumes control. (3-30-06)

05. Backfilling and Grading. (11-1-89)

a. Every operator who conducts surface mining or cyanidation facility operations which disturb less than two (2) acres shall, where possible, contour the disturbed land to its approximate previous contour. These lands shall be revegetated in accordance with Subsection 140.11. (3-30-06)

b. An operator who conducts surface mining or cyanidation facility operations which disturb two (2) acres or more shall reduce all waste piles and depressions to the lowest practicable grade. This grade shall not exceed the angle of repose or maximum slope of natural stability for such waste or generate erosion in which sediment enters waters of the state. (3-30-06)

c. Backfill and fill materials should be compacted in a manner to ensure mass and surface stability. (7-1-98)

d. After the disturbed area has been graded, slopes will be measured for consistency with the approved reclamation plan or the permanent closure plan. (3-30-06)

07. Disposal of Waste in Areas Other Than Mine Excavation. Waste material not used to backfill mined areas shall be transported and placed in a manner designed to stabilize the waste piles and control erosion. (3-30-06)

a. The available disposal area should be on a moderately sloped, naturally stable area. The site should be near the head of a drainage to reduce the area of watershed above the fill. (11-1-89)

b. All surface water flows within the disposal area shall be diverted and drained using accepted engineering practices such as a system of French drains, to keep water from entering the waste pile. These measures shall be implemented in accordance with standards prescribed by the Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, if applicable. (11-1-89)

c. The waste material not used in backfilling mined areas should be compacted, where practical, and should be covered and graded to allow surface drainage and ensure long-term stability. (11-1-89)

d. The operator may, if appropriate, use terraces or slope reduction to stabilize the face of any fill. Slopes of the fill material should not exceed angle of repose or generate erosion in which sediment enters waters of the state. (3-30-06)

e. Unless adequate drainage is provided through a fill area, all surface water above the fill shall be diverted away from the fill area into protected channels, and drainage shall not be directed over the unprotected face of the fill. (11-1-89)

f. The operator shall conduct revegetation activities with respect to such waste piles in accordance with Subsection 140.11. (3-30-06)

08. Settling Ponds; Minimum Criteria. (11-1-89)

a. Sediment Storage Volume. Settling ponds shall provide adequate sediment storage capacity to achieve compliance with applicable water quality standards and protect existing beneficial uses, and may require periodic cleaning and proper disposal of sediment. (11-1-89)

b. Water Detention Time. Settling ponds shall have an adequate theoretical detention time for water inflow and runoff entering the pond, but theoretical detention time may be reduced by improvements in pond design, chemical treatment, or other methods. (11-1-89)

c. Emergency Spillway. In addition to the sediment storage volume and water detention time, settling ponds shall be designed to withstand and release storm flows as required by the Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code, and Safety of Dams Rules, where applicable. (11-1-89)

09. Tailings Impoundments. All tailings, dams, or other types of tailings impoundments shall be designed, constructed, operated, and decommissioned so that upon their abandonment, the dam and impoundment area will not constitute a hazard to human or animal life. (11-1-89)

a. Design criteria, construction techniques, and decommission techniques for tailings dams and impoundments shall comply with the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, and applicable rules and regulations. (11-1-89)

b. Topsoil shall be removed from the area to be affected by the impounding structure and tailings reservoir in accordance with Subsection 140.04. (3-30-06)

c. Abandonment and Decommissioning of Tailings Impoundments. (3-30-06)

i. Dewatering. Tailings ponds shall be dewatered to the extent necessary to provide an adequate foundation for the approved post-mining use. (3-30-06)

ii. Control of surface waters. Surface waters shall either be channeled around the reservoir and impoundment structure or through the reservoir and breached structure. Permanent civil structures shall be designed and constructed to implement either method of channeling. The structure shall provide for erosion-free passage of waters and adequate energy dissipation prior to entry into the natural drainage below the impounding structure. (3-30-06)

iii. Detoxification. Hazardous chemical residues within the tailings pond shall be detoxified or covered with an adequate thickness of non-toxic material, to the extent necessary to achieve water quality standards in adjacent surface waters. (3-30-06)

iv. Reclamation. After implementing the required dewatering, detoxification, and surface drainage control measures, the reservoir and impounding structure shall be covered with topsoil or other material conducive to plant growth, in accordance with Subsection 140.04. Where such soils are limited in quantity or not available, and upon approval by the Department, physical or chemical methods for erosion control may be used. All such areas are to be revegetated in accordance with Subsection 140.11, unless specified otherwise. (3-30-06)

d. When the operator requests termination of its reclamation or permanent closure plan, pursuant to Section 150 of these rules, impoundment structures and any reservoirs retained as fresh water reservoirs after final reclamation or permanent closure shall be required to conform with the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, if applicable. (3-30-06)

10. Permanent Cessation and Time Limits for Planting. (11-1-89)

a. Seeding and planting of affected lands and/or a permanently closed cyanidation facility should be conducted during the first normal period for favorable planting conditions after final seedbed preparation. (3-30-06)

b. Reclamation activities, where possible, are encouraged to be concurrent with the mining operation and may be included in the approved reclamation plan. Final reclamation shall begin within one (1) year after the surface mining operations have permanently ceased on a mine panel. If the operator permanently ceases disposing of overburden on a waste area or permanently ceases removing minerals from a pit or permanently ceases using a road or other affected land, the reclamation activity on each given area shall start within one (1) year of such cessation, despite the fact that all operations as to the mine panel, which included such pit, road, overburden pile, or other affected land, has not permanently ceased. (11-1-89)

c. An operator shall be presumed to have permanently ceased surface mining operations on a given portion of affected land when no substantial amount of mineral or overburden material has been removed or overburden placed on an overburden dump, or no significant use has been made of a road during the prior three (3) years. If an operator does not plan to use an affected area for three (3) or more years but intends thereafter to use the affected area for surface mining operations and desires to defer final reclamation until after its subsequent use, the operator shall submit a notice of intent and request for deferral of reclamation to the director, in writing. If the director determines that the operator plans to continue the operation within a reasonable period of time, the director shall notify the operator and may require actions to be taken to reduce degradation of surface resources until operations resume. If the director determines that use of the affected land for surface mining operations will not be continued within a reasonable period of time, the director shall proceed as though the surface mining operation has been abandoned, but the operator shall be notified of such decision at least thirty (30) days before taking any formal administrative action. (11-1-89)

11. Revegetation Activities. (11-1-89)

a. The operator shall select and establish plant species that can be expected to result in vegetation comparable to that growing on the affected lands or on a closed cyanidation facility prior to surface mining or cyanidation facility operations, respectively. Certified weed free seed should be used in revegetation. The operator may use available technical data and results of field tests for selecting seeding practices and soil amendments which will result in viable revegetation. These practices of selection may be included in an approved reclamation plan or permanent closure. (3-30-06)

b. Unless otherwise specified in the approved reclamation or permanent closure plan, the success of revegetation efforts shall be measured against the existing vegetation on site prior to the surface mining or cyanidation facility operation, or against an adjacent reference area supporting similar types of vegetation. (3-30-06)

i. The ground cover of living plants on the revegetated area should be comparable to the ground cover of living plants on the adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation. (11-1-89)

ii. For purposes of this rule, ground cover shall be considered comparable if it has, on the area actually planted at least seventy percent (70%) of the premining ground cover for the mined area or adjacent reference area; (11-1-89)

iii. For locations with an average annual precipitation of more than twenty-six (26) inches, the director, in approving a reclamation or permanent closure plan, may set a minimum standard for success of revegetation as follows: Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species. (3-30-06)

iv. As used in this section, “herbaceous species” means grasses, legumes, and other forbs; “woody plants” means woody shrubs, trees, and vines; and “ground cover” means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measured. Rock surface areas will be excluded from this calculation. (11-1-89)

v. For previously mined areas that were not reclaimed to the standards required by Section 140, and

which are affected by the surface mining or cyanidation facility operations, vegetation should be established to the extent necessary to control erosion, but shall not be less than that which existed before redisturbance; and (3-30-06)

vi. Vegetative cover shall not be less than that required to control erosion. (11-1-89)

c. Introduced species may be planted if they are known to be comparable to previous vegetation, or if known to be of equal or superior use for the approved post-mining use of the affected land, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous or noxious weed species shall not be used in revegetation. (11-1-89)

d. By mutual agreement of the director, the landowner, and the operator, a site may be converted to a different, more desirable or more economically suitable habitat. (3-30-06)

e. Planting of grasses and forbs should be done in a manner which promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for mine revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable. (11-1-89)

f. The operator should plant shrubs or shrub seed, as required, where shrub communities existed prior to mining. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after grass seeding. Where the landowner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs shall be protected from erosion by vegetation, chemical, or other acceptable means during establishment of the shrubs. (11-1-89)

g. Reforestation. Tree stocking of forestlands should meet the following criteria: (3-30-06)

i. Trees that are adapted to the site should be planted on the area to be revegetated in a density which can be expected over time to yield a timber stand comparable to premining timber stands; (11-1-89)

ii. Trees shall be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and (11-1-89)

iii. Forestlands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. (11-1-89)

h. Revegetation is not required on the following areas: (11-1-89)

i. Affected lands, or portions thereof, where planting is not practicable or reasonable because the soil is composed of excessive amounts of sand, gravel, shale, stone, or other material to such an extent to prohibit plant growth; (11-1-89)

ii. Any mined area or overburden stockpiles proposed to be used in the mining operations for haulage roads, so long as those roads are not abandoned; (3-30-06)

iii. Any mined area or overburden stockpile, where lakes are formed by rainfall or drainage runoff from adjoining lands; (3-30-06)

iv. Any mineral stockpile; (11-1-89)

v. Any exploration trench which will become a part of a pit or an overburden disposal area; and (3-30-06)

vi. Any road which is to be used in mining operations, so long as the road is not abandoned. (11-1-89)

i. Mulching. Mulch should be used on severe sites and may be required by the reclamation or permanent closure plan where slopes are steeper than three to one (3:1) or the mean annual rainfall is less than twelve (12) inches. When used, straw or hay mulch should be obtained from certified weed free sources. “Mulch” means

vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation which will provide a micro-climate more suitable for germination and growth on severe sites. Annual grains such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time. (3-30-06)

12. Petroleum-Based Products and Chemicals. All refuse, chemical and petroleum products and equipment should be stored and maintained in a designated location away from surface water and disposed of in such a manner as to prevent their entry into a waterway. (3-30-06)

141. -- 149. (RESERVED)

150. TERMINATION OF A PLAN.

01. Terminate upon Request of the Operator. A reclamation plan shall terminate upon request of the operator, upon inspection by the director, and a determination that all reclamation activity has been completed to the standards specified in the plan, and following final approval by the director. Upon termination, the director will release the remaining bond, notify the operator, and any authority to conduct any surface mining operations under the subject plan shall terminate. (3-30-06)

02. Terminate a Permanent Closure Plan. The director shall terminate a permanent closure plan upon request of the operator, provided all the provisions and objectives of the permanent closure plan have been met, as determined by the director under Sections 111 and 112 of these rules. Upon a determination that permanent closure has been completed in accordance with the approved permanent closure plan and upon consultation with the DEQ that the operator's request to terminate a plan should be approved, the director will notify the operator that any authority to continue cyanidation operations shall cease and he will release the balance of the permanent closure bond in accordance with Subsection 121.06. (3-30-06)

151. -- 159. (RESERVED)

160. ENFORCEMENT AND FAILURE TO COMPLY.

01. Right of Inspection. Authorized officers of the Department of Lands, upon presentation of appropriate credentials, shall have the right to enter upon lands affected or proposed to be affected by exploration or surface mining operations to determine compliance with these rules. Inspections shall be conducted at reasonable times in the presence of the operator or his authorized employee or representative. The operator shall make such a person available for the purpose of inspection. This rule shall not prevent the Department from making an inspection of the site if the operator fails to make a representative available on request. (11-1-89)

02. Bond Forfeiture. Upon request by the director, the attorney general may institute proceedings to have the bond for reclamation or permanent closure forfeited for violation of an order entered pursuant to Section 47-1513, Idaho Code and these rules. (3-30-06)

03. Civil Penalty. An unbonded operator, or an operator who violates these rules by performing an act which is not included in an approved reclamation plan or an approved permanent closure plan that is not subsequently approved by the Department, shall be subject to a civil penalty as authorized by Section 47-1513(c), Idaho Code. (3-30-06)

04. Injunctive Procedures. The director may seek injunctive relief and proceed with legal action, if necessary, to enjoin a surface mine operator or cyanidation facility operator who violates the provisions of the chapter, these rules, or the terms of an existing approved reclamation or permanent closure plan. Any such action shall follow the procedures established in Section 47-1513, Idaho Code. (3-30-06)

05. Appeal of Final Order. An operator dissatisfied with a final order of the Board may within sixty (60) days after receiving the order, file an appeal in accordance with Section 47-1514, Idaho Code. (3-30-06)

161. -- 169. (RESERVED)

170. COMPUTATION OF TIME.
Computation of time will be based on calendar days. In computing any period of time prescribed by the chapter, the day on which the designated period of time begins is excluded. The last day of the period is included unless it is a Saturday, Sunday or legal holiday when the Department is not open for business. In such a case, the time period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. Intermediate Saturdays, Sundays or legal holidays are excluded from the computation when the period of prescribed time is seven (7) days or less. (3-30-06)

171. -- 179. (RESERVED)

180. PUBLIC AND CONFIDENTIAL INFORMATION.

01. Information Subject to Disclosure. Information obtained by the Department pursuant to the chapter and these rules is subject to disclosure under Title 74, Chapter 1, Idaho Code ("Public Records Act"). (3-30-06)

02. Public Inspection. Except as provided in Section 180 or Title 9, Chapter 3, Idaho Code, information obtained by or submitted to the Department pursuant to these rules will be available to the public for inspection and copying during normal office hours. Anyone who requests assistance from the Department to collect, copy or mail public information must tender, in advance, the reasonable cost of those services. (3-30-06)

03. Information Not Subject to Public Inspection. Notice of exploration as required under Section 060 and any materials submitted to the Board, the director, or the Department as confidential shall not be disclosed by the Board, director, or Department employees to any person other than the Board, director, and employees of the Department without the written permission of the operator. (3-30-06)

04. Use by Board. Any plans, documents, or materials submitted as confidential and held as such shall not prohibit the Board, director, or Department from using the information in an administrative hearing or judicial proceeding initiated pursuant to Section 47-1514, Idaho Code. (3-30-06)

05. BMPs. An operator shall not unreasonably designate as confidential portions of reclamation or permanent closure plans which detail proposed BMPs to meet state water quality standards and protect existing beneficial uses of waters of the state. (3-30-06)

181. -- 189. (RESERVED)

190. DEPOSIT OF FORFEITURES AND DAMAGES.
All penalties, forfeitures, and civil damages collected pursuant to the chapter, shall be deposited with the state treasurer in: (3-30-06)

01. Surface Mine Reclamation Fund. The surface mine reclamation fund to be used by the director for surface-mined land reclamation purposes; or (3-30-06)

02. Cyanidation Facility Closure Fund. The cyanidation facility closure fund to be used by the director to complete permanent closure activities and to administer the permanent closure provisions of the chapter. (3-30-06)

191. -- 199. (RESERVED)

200. COMPLIANCE OF EXISTING RECLAMATION PLANS.
These rules, upon their adoption, shall apply as appropriate to all existing surface mining operations, but shall not affect the validity or modify the duties, terms, or conditions of any existing approved reclamation plan or impose any additional obligations with respect to reclamation upon any operator conducting surface mining operations pursuant to a reclamation plan approved prior to adoption of these rules unless amended under Section 090. (3-30-06)

201. -- 999. (RESERVED)

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