IDAPA 20 – IDAHO DEPARTMENT OF LANDS

Resource Protection and Assistance Bureau

20.03.01 – Rules Governing Dredge and Placer Mining Operations in Idaho

Who does this rule apply to?

- Dredge or placer miners
- Exploration activities upon a placer deposit using motorized earth-moving equipment

What is the purpose of this rule?
This rule implements the Idaho Dredge and Placer Mining Protection Act, which enables the removal of minerals while preserving water quality and ensuring rehabilitation for beneficial use of the land following mining.

The Act and this rule establish:

- Requirements for placer mine exploration;
- Procedures for getting a placer and dredge mining permit;
- Requirements for posting financial assurance to ensure the completion of rehabilitation; and
- Procedures for inspections

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statute passed by the Idaho Legislature:

Mines and Mining -
- Section 47-1316, Idaho Code – Dredge Mining: Administrative Agency

Who do I contact for more information on this rule?

Idaho Department of Lands
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000. LEGAL AUTHORITY.

These rules are promulgated by the Idaho State Board of Land Commissioners pursuant to Section 47-1316, Idaho Code. The Board has delegated to the Director of the Department of Lands ("department") the duties and powers under the act and these rules; provided that the Board retains responsibility for approval of permit and administrative review. (3-20-20)T

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.03.01 "Rules Governing Dredge and Placer Mining Operations in Idaho." (3-20-20)T

02. Scope. These rules constitute the Idaho Department of Lands' administrative procedures for implementation of the Idaho Dredge and Placer Mining Protection Act with the intent and purpose to protect the lands, streams and watercourses within the state, from destruction by dredge mining and by placer mining, and to preserve the same for the enjoyment, use and benefit of all of the people, and that clean water in the streams of Idaho is in the public interest. (3-20-20)T

002. ADMINISTRATIVE APPEALS.

01. Procedures for Appeals: (3-20-20)T

a. Any applicant or permit holder aggrieved by any final decision or order of the Board is entitled to judicial review in accordance with the provisions and standards set forth in Title 67, Chapter 52, Idaho Code, the Administrative Procedures Act. (3-20-20)T

b. When the Director or the Board finds that justice so requires, it may postpone the effective date of a final order pending judicial review. The reviewing court, including the court to which a case may be taken on appeal, may issue all necessary and appropriate orders to postpone the effective date of any final order pending conclusion of the review proceedings. (3-20-20)T

c. Notwithstanding any other provisions of these rules concerning administrative or judicial proceedings, whenever the Board determines that a Permittee has not complied with the provisions of the act or these rules, the Board may file a civil action in the district court for the county wherein the violation or some part occurred, or in the district court for the county where the defendant resides. The Board may request the court to issue an appropriate order to remedy any alleged violation. (3-20-20)T

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Act. The Idaho Placer and Dredge Mining Protection Act, Title 47, Chapter 13, Idaho Code. (3-20-20)T

02. Approximate Previous Contour. A contour reasonably comparable to that contour existing prior to disturbance, or that blends with the adjacent topography. (3-20-20)T

03. Best Management Practices. Methods, measures, or practices to prevent or reduce nonpoint source (NPS) water pollution, including, but not limited to, structural and nonstructural controls, and operation and maintenance procedures. Usually, BMPs are applied as a system of practices rather than a single practice. BMPs are selected on the basis of site-specific conditions that reflect natural background conditions; political, social, economic, and technical feasibility; and stated water quality goals. (3-20-20)T

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. (3-20-20)T

05. Department. The Idaho Department of Lands. (3-20-20)T

06. Director. The Director of the Department of Lands or such representative as may be designated by the Director. (3-20-20)T

07. Disturbed Land or Affected Land. Land, natural watercourses, or existing stockpiles and waste

piles affected by placer or dredge mining, remining, exploration, stockpiling of ore wastes from placer or dredge mining, or construction of roads, tailings ponds, structures, or facilities appurtenant to placer or dredge mining operations. (3-20-20)T

08. Final Order of the Board. A written notice of rejection or approval, 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. (3-20-20)T

09. Hearing Officer. That person duly appointed by the Board to hear proceedings under Section 47-1320, Idaho Code. It also means that person selected by the Director to hear proceedings initiated under Section 030 or Section 051 of these rules. (3-20-20)T

10. Mine Panel. That area designated by the Permittee as an identifiable portion of a placer or dredge mine on the map submitted pursuant to Section 47-1317, Idaho Code. (3-20-20)T

11. Mineral. Any ore, rock or substance extracted from a placer deposit or from an existing placer stockpile or wastepile, but does not include coal, clay, stone, sand, gravel, phosphate, uranium, oil or gas. (3-20-20)T

12. Motorized Earth-Moving Equipment. Backhoes, bulldozers, front-loaders, trenchers, core drills, draglines, and suction dredges with an intake diameter exceeding eight (8) inches, and other similar equipment. (3-20-20)T

13. Mulch. Vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation. (3-20-20)T

14. Natural Watercourse. Any stream in the state of Idaho having definite bed and banks, and which confines and conducts continuously flowing water. (3-20-20)T

15. Overburden. Material extracted by a Permittee which is not a part of the material ultimately removed from a placer or dredge mine and marketed by a Permittee, exclusive of mineral stockpiles. Overburden is comprised of topsoil and waste. (3-20-20)T

16. Overburden Disposal Area. Land surface upon which overburden is piled or planned to be piled. (3-20-20)T

17. Permanent Cessation. Mining operations as to the whole or any part of the permit area have stopped and there is substantial evidence that such operations will not resume within one (1) year. The date of permanent cessation is the last day when mining operations are known or can be shown to have occurred. (3-20-20)T

18. Permit Area. That area designated under Section 021 as the site of a proposed placer or dredge mining operation, including all lands to be disturbed by the operation. (3-20-20)T

19. Permittee. The person in whose name the permit is issued and who is to be held responsible for compliance with the conditions of the permit by the department. (3-20-20)T

20. Person. Any person, corporation, partnership, association, or public or governmental agency engaged in placer or dredge mining, whether individually, jointly, or through subsidiaries, agents, employees, or contractors. (3-20-20)T

21. Pit. An excavation created by the extraction of minerals or overburden during placer mining or exploration operations. (3-20-20)T

22. Placer Deposit. Naturally occurring unconsolidated surficial detritus containing valuable minerals, whether located inside or outside the confines of a natural watercourse. (3-20-20)T

23. Placer Stockpile. Placer mineral extracted during past or present placer or dredge mining operations and retained at the mine for future rather than immediate use. (3-20-20)T

24. Placer or Dredge Exploration Operation. Activities including, but not limited to, the construction of roads, trenches, and test holes performed on a placer deposit for the purpose of locating and determining the economic feasibility of extracting minerals by placer or dredge mining. (3-20-20)T

25. Placer or Dredge Mining or Dredge or Other Placer Mining. The extraction of minerals from a placer deposit, including remining for sale, processing, or other disposition of earth material excavated from previous placer or dredge mining. (3-20-20)T

26. Placer or Dredge Mining Operation. Placer or dredge mining which disturbs in excess of one-half (1/2) acre of land during the life of the operation. (3-20-20)T

27. Reclamation. The process of restoring an area disturbed by a placer or dredge mining operation or exploration operation to its original or another beneficial use, considering land 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. (3-20-20)T

28. Revegetation. The establishment of the premining vegetation or a comparable vegetative cover on the land disturbed by placer or dredge mining operations. (3-20-20)T

29. Road. A way including the bed, slopes, and shoulders constructed within the circular tract circumscribed by a placer or dredge mining operation, or constructed solely for access to a placer or dredge mining operation or placer or dredge exploration operation. A way dedicated to public multiple use or being used by a governmental land manager or private landowner at the time of cessation of operations and not constructed solely for access to a placer or dredge mining operation or exploration operation, is not considered a road. (3-20-20)T

30. Settling Pond. A manmade enclosure or natural impoundment structure constructed and used for the purpose of treating mine process water and/or runoff water from adjacent disturbed areas by the removal or settling of sediment particles. Several types of settling ponds or a series of smaller ponds may be used in water management. The most common type is a recycle or recirculation pond which is used to pump clarified water back to the wash plant operation. (3-20-20)T

31. Surface Waters. The surface waters of the state of Idaho. (3-20-20)T

32. Topsoil. The unconsolidated mineral and organic matter naturally present on the surface of the earth that is necessary for the growth and regeneration of vegetation. (3-20-20)T

011. ABBREVIATIONS.

01. BMP. Best Management Practices. (3-20-20)T

02. DEQ. Department of Environmental Quality. (3-20-20)T

012. PURPOSE AND GENERAL PROVISIONS.

01. Policy. It is the policy of the state of Idaho to protect the lands, streams, and watercourses within the state from destruction by placer mining, and to preserve them for the enjoyment, use, and benefit of all of the people, and that clean water in the streams of Idaho is in the public interest. (3-20-20)T

02. Purpose. These rules are intended to implement the requirements for operation and reclamation of placer and dredge mining set forth in the Idaho Code. Compliance with these rules will allow removal of minerals while preserving water quality and ensuring rehabilitation for beneficial use of the land following mining. Placer and dredge mining is expressly prohibited upon certain waterways included in the federal wild and scenic rivers system. It is also the purpose of these rules to implement the state of Idaho's antidegradation policy as set out in Executive Order No. 88-23 as it pertains to placer mining and exploration operations. (3-20-20)T

03. General Provisions. In general, these rules establish: (3-20-20)T

a. Requirements for placer mine exploration operations; (3-20-20)T

b. Procedures for securing a placer and dredge mining permit; (3-20-20)T

c. The requirements for posting a performance bond as a condition of such permit to ensure the completion of rehabilitation operations; (3-20-20)T

d. Procedures for initial and periodic inspection of placer and dredge mining operations to ensure compliance with these rules; (3-20-20)T

e. Prohibition of placer and dredge mining on designated watercourses (see Section 060); and (3-20-20)T

f. Prohibitions against placer and dredge mining on certain lands when not in the public interest. (3-20-20)T

04. Compliance with Other Laws. Placer and dredge exploration operations and mining operations must comply with all applicable rules and laws of the state of Idaho including, but not limited to, the following: (3-20-20)T

a. Idaho Environmental Protection and Health Act, Title 39, Chapter 1, Idaho Code, and rules as promulgated and administered by the Idaho Department of Environmental Quality. (3-20-20)T

b. 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. (3-20-20)T

c. Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code, and applicable rules and regulations as promulgated and administered by the Idaho Department of Water Resources. (3-20-20)T

013. APPLICABILITY.

01. All Lands in State. These rules apply to all lands within the state, including private and federal lands, which are disturbed by placer or dredge mining conducted after November 24, 1954. (3-20-20)T

02. Types of Operations. These rules apply to placer and dredge mining operations and placer and dredge exploration operations as defined under Section 47-1313, Idaho Code, and Subsections 010.24, 010.25, and 010.26 and to the following activities: (3-20-20)T

a. The extraction of minerals from a placer deposit, including the removal of vegetation, topsoil, overburden, and minerals; construction, and operation of on-site processing equipment; disposal of overburden and waste materials; design and operation of siltation and other water quality control facilities; and other activities contiguous to the mining site that disturb land and affect water quality and/or water quantity. (3-20-20)T

b. All exploration activities conducted upon a placer deposit using motorized earth-moving equipment. (3-20-20)T

03. Nonapplicability. These rules do not apply to mining operations regulated by the Idaho Surface Mining Act; neither do they apply to surface disturbance caused by the underground mining of a placer deposit, unless the deposit outcrops on or near the surface and the operation will result in the probable subsidence of the land surface. (3-20-20)T

04. Stream Channel Alterations. These rules do not exempt the Permittee from obtaining a stream channel alteration permit if required by the Idaho Department of Water Resources. (3-20-20)T

05. Navigational Improvements. These rules do not apply to dredging operations conducted for the sole purpose of establishing and maintaining a channel for navigation. (3-20-20)T

06. Suction Dredges. These rules do not apply to dredging operations in streams or riverbeds using suction dredges with an intake diameter of eight (8) inches or less. However, these rules do not affect or exempt the applicability of Section 47-701, Idaho Code, regarding leasing of the state-owned beds of navigable lakes, rivers, and streams, Section 47-703A, Idaho Code, regarding exploration on navigable lakes and streams, and Section 39-118, Idaho Code, regarding review of plans for waste treatment or disposal facilities such as settling or recycle ponds. (3-20-20)T

014. ADMINISTRATION.
The Department of Lands shall administer these rules under the direction of the director. (3-20-20)T

015. -- 019. (RESERVED)

020. PLACER OR DREDGE EXPLORATION OPERATIONS.

01. Notice. Any person desiring to conduct placer or dredge exploration operations using motorized earth-moving equipment must, within seven (7) days of commencing exploration, notify the Director. The notice includes the following: (3-20-20)T

a. The name and address of the operator; (3-20-20)T

b. The legal description of the exploration operation and its starting and estimated completion date; and (3-20-20)T

c. The anticipated size of the exploration operation and the general method of operation. (3-20-20)T

02. Confidentiality. The exploration notice will be treated confidential pursuant to Sections 74-107 and 47-1314, Idaho Code. (3-20-20)T

03. One-Half Acre Limit. Any placer or dredge exploration operation that causes a cumulative surface disturbance in excess of one-half (1/2) acre of land, including roads, is considered a placer or dredge mining operation and subject to the requirements outlined in Sections 021 through 065. Lands disturbed by any placer or dredge exploration operation that causes a cumulative surface disturbance of less than one-half (1/2) acre of land, including roads, must be restored to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operation and as outlined in Subsection 020.04. (3-20-20)T

04. Reclamation Required. The following reclamation activities, required to be conducted on exploration sites, must be performed in a workmanlike manner with all reasonable diligence, and as to a given exploration drill hole, road, pit, or trench, within one (1) year after abandonment thereof: (3-20-20)T

a. Drill holes must be plugged within one (1) year of abandonment with a permanent concrete or bentonite plug. (3-20-20)T

b. Restore all disturbed lands, including roads, to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operations. (47-1314(b)) (3-20-20)T

c. Conduct revegetation activities in accordance with Subsection 040.17. 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. Such abandoned pits and trenches must be reclaimed within one (1) year of verification; (3-20-20)T

d. If water runoff from exploration operations causes siltation or other pollution of surface waters, the operator will prepare disturbed lands and adjoining lands under his or her control, as is necessary to meet state water quality standards. (3-20-20)T

e. Abandoned lands disturbed by an exploration operation must be top-dressed to the extent that such overburden is reasonably available from any pit or other excavation created by the exploration operation, 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; (3-20-20)T

f. Any water containment structure created in connection with exploration operations will be constructed, maintained, and reclaimed so as not to constitute a hazard to human health or the environment. (3-20-20)T

021. APPLICATION PROCEDURE FOR PLACER OR DREDGE MINING PERMIT.

01. Approved Reclamation Plan Required. No Permittee may conduct placer or dredge mining operations, as defined in these rules, on any lands in the state of Idaho until the placer mining permit has been approved by the Board, the department has received a bond meeting the requirements of these rules, and the permit has been signed by the Director and the Permittee. (3-20-20)T

02. Application Package. The Permittee must submit a complete application package, for each separate placer mine or mine panel, before the placer permit will be reviewed. Separate placer mines are individual, physically disconnected operations. The complete application package consists of: (3-20-20)T

a. An application completed by the applicant on a form provided by the Director; (3-20-20)T

b. A map or maps of the proposed mining operation which includes the information required under Subsection 021.04; (3-20-20)T

c. A reclamation plan, in map and narrative form, which includes the information required under Subsection 021.06. The map and reclamation plan may be combined on one (1) sheet if practical; (3-20-20)T

d. Document(s) identifying and assessing foreseeable, site-specific nonpoint sources of water quality impacts upon adjacent surface waters, and the best management practices the applicant will take to control such nonpoint source impacts; (3-20-20)T

e. When the Director determines, after consultation with DEQ, that there is an unreasonably high potential for nonpoint source pollution of adjacent surface waters, the Director will request, and the applicant will provide to the Director, baseline pre-project surface water monitoring information and furnish ongoing monitoring data during the life of the project. This provision does not require any additional baseline preproject surface water monitoring information or ongoing monitoring data where such information or data is already required to be provided pursuant to any federal or state law and is available to the Director; (3-20-20)T

f. An out-of-state Permittee must designate an in-state agent authorized to act on behalf of the Permittee. In case of an emergency requiring action to be taken to prevent environmental damage, the authorized agent will be notified as well as the Permittee; and (3-20-20)T

g. An application fee of fifty dollars ($50) for each ten (10) acres or fraction of land included in an application for a new mining permit, or of land to be affected or added in an amended application to an existing mining permit, must be included with the application. No application fee will exceed one thousand dollars ($1,000). (3-20-20)T

03. Incomplete Applications. An application for a permit may be returned for correction if the information provided on the application form or associated mine map(s) or reclamation plan is incomplete or otherwise unsatisfactory. The Director will not proceed on the application until all necessary information is submitted. (3-20-20)T

a. If the applicant is not the owner of the lands described in the application, or any part thereof, the land owner must endorse his approval of the application prior to issuance of a permit. The federal government, as a property owner, will be notified of the application, and asked to endorse the application as property owner. For mining operations proposed upon land under a mining lease, either the signature of the lessor must be affixed to the application or a copy of the complete lease attached to the application. (3-20-20)T

04. Requirements of Maps. Vicinity maps must be prepared on standard United States Geological Survey, seven and one-half (7.5) minute quadrangle maps, or equivalent. In addition, maps of the proposed placer mining operation site will be of sufficient scale to adequately show the following: (3-20-20)T

a. The location of existing roads and anticipated access and main haulage roads planned for construction in connection with the mining operation, along with approximate dates for construction, reconstruction, and abandonment; (3-20-20)T

b. The approximate location, and the names of all known streams, creeks, springs, wells, or bodies of water within one thousand (1,000) feet of the mining operation; (3-20-20)T

c. The approximate boundaries of all lands to be disturbed in the process of mining, including legal description to the quarter-quarter section; (3-20-20)T

d. The approximate boundaries and acreage of the lands that will become disturbed land as a result of the placer or dredge mining operation during the first year of operations following issuance of a placer mining permit; (3-20-20)T

e. The planned location and configuration of pits, mineral stockpiles, topsoil stockpiles, and waste dumps within the mining property; (3-20-20)T

f. Scaled cross-sections, of length and width, which are representative of the placer or dredge mining operation, showing the surface contour prior to mining and the expected surface contour after reclamation activities have been completed; (3-20-20)T

g. The location of required settling ponds, the design plans, construction specifications and narrative to show they meet both operating requirements and protection from erosion, seepage, and flooding that can be anticipated in the area. Where a dredge is operating in a stream, describe by drawing and narrative, the operation of the filtration equipment to be used to clarify the water. (3-20-20)T

h. Surface and mineral control or ownership of appropriate scale for boundary identification. (3-20-20)T

05. Settling Ponds. Detailed plans and specifications for settling ponds must be drawn to a scale of one (1) inch = ten (10) feet and include the following: (3-20-20)T

a. A detailed map of the settling pond location, including: (3-20-20)T

i. Dimensions and orientation of the settling ponds and/or other wastewater treatment components of the operation; (3-20-20)T

ii. Distance from surface waters; (3-20-20)T

iii. Pond inlet/outlet locations including emergency spillways and detailed description of control structures and piping; (3-20-20)T

iv. Location of erosion control structures; and (3-20-20)T

v. Ten (10) year flood elevation (probable high water mark). (3-20-20)T

b. A detailed cross-section of the pond(s) including: (3-20-20)T

i. Dimensions and orientation; (3-20-20)T

ii. Proposed sidewall elevations; (3-20-20)T

iii. Proposed sidewall slope; (3-20-20)T

iv. Sidewall width; (3-20-20)T

v. Distance from and elevation above all surface water; and (3-20-20)T

vi. Slope of settling pond location. (3-20-20)T

c. Narrative of the construction method(s) describing: (3-20-20)T

i. Bottom material; (3-20-20)T

ii. Sidewall material; (3-20-20)T

iii. Pond volume; (3-20-20)T

iv. Volume of water to be used in the wash plant; (3-20-20)T

v. Discharge or land application requirements; (3-20-20)T

vi. Any pond liners or filter materials to be installed; and (3-20-20)T

viii. Compaction techniques. (3-20-20)T

d. If the proposed ponds are: (3-20-20)T

i. Less than two thousand five hundred (2,500) feet square surface area; (3-20-20)T

ii. Less than four (4) feet high; (3-20-20)T

iii. Greater than fifty (50) feet from surface water; and (3-20-20)T

iv. Constructed on slopes of three: one (3:1) or flatter, the plans and specifications for settlings ponds must contain information in Subparagraphs 021.05.a.i., 021.05.a.ii., and 021.05.a.iv.; 021.05.b.i., 021.05.b.ii., 021.05.b.v. and 021.05.b.vi. This information may be prepared as a sketch map showing appropriate elevations, distances and other required details. (3-20-20)T

06. Requirements for Reclamation Plan. A reclamation plan must be submitted in map and narrative form and include the following: (3-20-20)T

a. Show how watercourses disturbed by the mining operation will be replaced on meander lines with a pool structure conducive to good fish and wildlife habitat and recreational use. Show how and where riprap or other methods of bank stabilization will be used to ensure that, following abandonment, the stream erosion will not exceed the rate normally experienced in the area. If necessary, show how the replaced watercourse will not contribute to degradation of water supplies; (3-20-20)T

b. Describe and show the contour of the proposed mine site after final backfilling and/or grading, with grades listed for slopes after mining; (3-20-20)T

c. On a drainage control map, show the best management practices to be utilized to minimize erosion on disturbed lands; (3-20-20)T

d. Show roads to be reclaimed upon completion of mining; (3-20-20)T

e. Show plans for both concurrent and final revegetation of disturbed lands. Indicate soil types, slopes, precipitation, seed rates, species, topsoil, or other growth medium storage and handling, time of planting, method of planting and, if necessary, fertilizer and mulching rates; (3-20-20)T

f. The planned reclamation of tailings or sediment ponds; (3-20-20)T

g. 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 administrative overhead. (3-20-20)T

h. Make a premining estimate of trees on the site by species and forest lands utilization consideration in reclamation. (3-20-20)T

07. State Approval Required. Approval of a placer mining permit must be obtained under these rules, even if approval of such plan has been or is obtained from an appropriate federal agency. (3-20-20)T

08. Application Review and Inspection. If the Director determines that an inspection is necessary, the applicant may be contacted and asked that he or his duly authorized employee or representative be present for inspection at a reasonable time. An inspection may be required prior to issuance of the permit. The applicant must make such persons available for the purpose of inspection (see Subsection 051.01). Failure to provide a representative does not mean that the state will not conduct such inspection. (3-20-20)T

022. PROCEDURES FOR REVIEW AND DECISION UPON AN APPLICATION.

01. Decision on Application. Following the Director's review of an application for a new permit, or to amend an existing permit and provide an opportunity to correct any deficiencies, the Board will approve or disapprove the application and the Director will notify the applicant of the Board's decision by mail. Such notice will contain any reservations conditioned with the approval, or the information required to be given under Subsections 022.07 and 022.09 if disapproved. If approved, a permit will be issued after the bonding requirements of Section 035 are met. No mining is allowed until the permit is bonded and applicant is notified by mail or telephone of approval. (3-20-20)T

02. Public Hearings. For the purpose of determining whether a proposed application complies with these rules, the Director may call for a public hearing, as described in Section 030. (3-20-20)T

03. Adverse Weather. If weather conditions prevent the Director from inspecting the proposed mining site to acquire the information required to evaluate the application, the application may be placed in suspense, pending improved weather conditions. The applicant will be notified in writing of this action. (3-20-20)T

04. Interagency Comment. Nonconfidential materials submitted under Section 021 will be forwarded by the Director to the Departments of Water Resources, Environmental Quality, and Fish and Game for review and comment. If operations are to be located on federal lands, the department will notify the U. S. Bureau of Land Management or the U.S. Forest Service. The Director may provide public notice on receipt of a reclamation plan. In addition, a copy of an application will be provided to individuals who request the information in writing, subject to Title 9, Chapter 3, Idaho Code. (3-20-20)T

05. Stream Alteration Permits. No permit will be issued proposing to alter, occupy or to dredge any stream or watercourse without notification to the Department of Water Resources of the pending application. The Department of Water Resources will respond to said notification within twenty (20) days. If a stream channel alteration permit is required, it must be issued prior to issuance of the placer and dredge permit. (3-20-20)T

06. Water Clarification. No permit will be issued until the Director is satisfied that the methods of water clarification proposed by the applicant are of sound engineering design and capable of meeting the water quality standards established under Title 39, Chapter 1, Idaho Code, and IDAPA 58.01.02, "Water Quality Standards," IDAPA, 58.01.11. "Ground Water Quality Rule." (3-20-20)T

07. Permit Denial Authority. The Board has the power to deny any application for a permit on state lands, streams, or riverbeds, or on any unpatented mining claims, upon its determination that a placer or dredge mining operation on the area proposed would not be in the public interest, giving consideration to economic factors, recreational use for such lands, fish and wildlife habitat, and other factors which in the judgement of the Board may be pertinent, and may deny any application upon notification by the Department of Water Resources that the granting

of such permit would result in permanent damage to the stream channel. (Section 47-1317(j), Idaho Code) (3-20-20)T

08. Permit Conditions. If an application fails to meet the requirements of these rules, the Board may issue a permit subject to conditions that bring the application into compliance with these rules. The applicant may accept or refuse the permit. Refusal to accept the permit is considered a denial under Subsection 022.09. (3-20-20)T

09. Amended Applications. If the Board disapproves the application, the applicant will be informed of the rules that have not been complied with, the manner in which they have not been complied with, and the requirements necessary to correct the deficiencies. The applicant may then submit an amended application, which will be processed as described in Section 022. (3-20-20)T

10. Permit Offering. Upon approval by the Board, the applicant will be notified of the action and the amount of bond required. Upon receipt of the required bond, the permit will be sent to the applicant for signature. If the bond and the permit, signed by the applicant, are not received within twelve (12) months of Board action, the approval will be automatically rescinded, except that upon written request of the applicant, and for good cause, the Director may defer decision of the Board's approval for a reasonable period of time not to exceed one (1) year. The Director will notify the applicant of his decision in writing. (3-20-20)T

11. Reclamation Obligations. The permit issued by the Board governs and determines the nature and extent of the reclamation obligations of the Permittee. (3-20-20)T

023. -- 024. (RESERVED)

025. AMENDING AN APPROVED PERMIT.

01. Application to Amendment. If circumstances arise that require significant change in the reclamation plan, method of operation, increase in acreage, or other details associated with an approved permit, the Permittee will submit an application on a department form or exact copy to amend the permit. Application fees are to be submitted with amended applications pursuant to Subsection 021.02.g. (3-20-20)T

02. Processing. An application to amend a permit will be processed in accord with Section 022. (3-20-20)T

026. DEVIATION FROM AN APPROVED PERMIT.

01. Unforeseen Events. If a Permittee finds that unforeseen events or unexpected conditions require immediate deviation from an approved permit, the Permittee may continue mining in accord with the procedures dictated by the changed conditions, pending submission and approval of an amended permit, even though such operations do not comply with the current approved permit. This does not excuse the Permittee from complying with the BMPs and reclamation requirements of Sections 020 and 040. (3-20-20)T

02. Notification. Notification of such unforeseen events must be given to the department within forty-eight (48) hours after discovery, and an application to amend the permit must be submitted within thirty (30) days of deviation from the approved permit by the Permittee. (3-20-20)T

027. TRANSFER OF PERMITS.

Placer and dredge mining permits may be transferred from an existing Permittee to a new Permittee. Transfer is made by the new Permittee filing a notarized Department Transfer of Permit form. The new Permittee is then responsible for the past Permittee's obligations under Title 47, Chapter 13, Idaho Code, these rules, the reclamation plan, and permit. When a replacement bond is submitted relative to an approved placer/dredge mining permit, 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 placer/dredge mining permit No., both prior and subsequent to the date of this rider." (3-20-20)T

028. -- 029. (RESERVED)

030. PUBLIC HEARING FOR PERMIT APPLICATION.

01. Public Hearings. During any stage of the application process the Director may conduct a public hearing. (3-20-20)T

02. Basis for Hearing. This action will be based upon the preliminary review of the application and upon any concern registered with the Director by the public, affected land owners, federal agencies having surface management of the affected lands, other interested entities, or upon request by the applicant. (3-20-20)T

03. Hearing for Water Degradation The Director will call for a public hearing when he determines, after consultation with the Departments of Water Resources, Environmental Quality, Fish and Game, and affected Indian tribes (pursuant to Paragraph 021.02.e.), that proposed placer or dredge mining operations can reasonably be expected to significantly degrade adjacent surface waters. A hearing held under this subsection will be conducted to receive comment on the measures the applicant will use to protect surface water quality from nonpoint source water pollution. (3-20-20)T

04. Site of Hearing. The hearing will be held, upon the record, in the locality of the proposed operation, or in Ada County, at a reasonable time and place. (3-20-20)T

05. Hearing Notice. The Director will give notice of the date, time, and place of the hearing to the applicant, to federal, state, local agencies, and Indian tribes which may have an interest in the decision, as shown on the application; to all persons petitioning for the hearing, if any; and to all persons identified by the applicant pursuant to Subsection 021.03.a. as an owner of the specific acreage to be affected by the proposed placer or dredge mining operation. Such hearing notice will be sent by certified mail and postmarked not less than thirty (30) days before the scheduled date of the public hearing. (3-20-20)T

06. Public Notice. The Director will notify the general public of the date, time, and place of the hearing by placing a newspaper advertisement once a week, for two (2) consecutive weeks, in the locale of the area covered by the application. The two (2) consecutive weekly advertisements begin between seven (7) and twenty (20) days prior to the scheduled date of the hearing. A copy of the application is to be placed for review in a conspicuous place in the local area of the proposed mining operations, in the nearest department's area office, and the department's administrative office in Boise. (3-20-20)T

07. Description of Effects. In the event a hearing is ordered under Subsection 030.03, the notice to the public will describe the potentially significant surface water quality degradation and contain the applicant's description of the measures that will be taken to prevent degradation of adjacent surface waters from nonpoint sources of pollution. The foregoing is to be discussed at the public hearing. (3-20-20)T

08. Hearing Officer. The hearing will be conducted by the Director or his duly authorized representative. Both oral and written testimony will be accepted. (3-20-20)T

031. -- 034. (RESERVED)

035. PERFORMANCE BOND REQUIREMENTS.

01. Submittal of Bond. Prior to issuance of a placer or dredge mining permit, an applicant must submit to the Director, on a placer or dredge mining bond form, a performance bond meeting the requirements of this rule. (3-20-20)T

a. The amount of the initial bond is in the amount determined by the Board to be the estimated reasonable costs of reclamation of lands proposed to be disturbed in the permit area, plus ten percent (10%). The determination by the Board of the bond amount constitutes a final decision subject to judicial review as set forth in Section 002 of these rules. The bond may be submitted in the form of a surety, cash, certificate of deposit, or other bond acceptable to the Director. (3-20-20)T

b. Acreage on which reclamation is completed must be reported in accord with Subsections 035.06

and 035.07. Acreage may be released upon approval by the Director. The bond may be reduced by the amount appropriate to reflect the completed reclamation. (3-20-20)T

02. Form of Performance Bond. (3-20-20)T

a. Corporate surety bond: This is an indemnity agreement executed for the Permittee by a corporate surety licensed to do business in the state of Idaho submitted on a placer and dredge mining bond form, or exact copy, supplied by the Director. The bond is to be conditioned upon the Permittee faithfully performing all requirements of the act, these rules, the permit, and reclamation plan, and must be payable to the state of Idaho. (3-20-20)T

b. Collateral bond: This is an indemnity agreement executed by or for the Permittee, and payable to the Idaho Department of Lands, pledging cash deposits, governmental securities, or negotiable certificates of deposit of any financial institution doing business in the United States. Collateral bonds are subject to the following conditions: (3-20-20)T

i. The Director will obtain possession, and upon receipt of such collateral bonds, deposit such cash or securities with the state treasurer to hold in trust for the purpose of bonding reclamation performance; (3-20-20)T

ii. The Director will value collateral at its current market value, not face value; (3-20-20)T

iii. Certificates of deposit will be issued or assigned to the Department, in writing, 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 Permittee, or other person which posted the collateral bond; (3-20-20)T

iv. Amount of an individual certificate may not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors; (3-20-20)T

v. Financial institutions issuing such certificates will waive all rights of set-off or liens which it has or might have against such certificates; (3-20-20)T

vi. Any such certificates will be automatically renewable; and (3-20-20)T

vii. The certificate of deposit will be of sufficient amount to ensure that the Director would be able to liquidate such certificates prior to maturity, upon forfeiture, for the amount of the required bond, including any penalty for early withdrawal. (3-20-20)T

c. Letters of credit: (3-20-20)T

i. A letter of credit ("credit") is an instrument executed by a bank doing business in Idaho, made at the request of a customer, that states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit; (3-20-20)T

ii. All credits are irrevocable and prepared in a format prescribed by the Director; (3-20-20)T

iii. All credits must be issued by an institution authorized to do business in the state of Idaho or through a confirming bank authorized to do business in the state of Idaho which engages that it will itself honor the credit in full. In the alternative, a foreign bank may execute or consent to jurisdiction of Idaho courts on a form prescribed by the Director; and (3-20-20)T

iv. The account party on all credits must be identical to the entity identified on the placer mining permit as the Permittee. (3-20-20)T

03. Blanket Bond. Where a Permittee is involved in numerous placer or dredge operations, the Director may accept a blanket bond in lieu of separate bonds under approved permits. The amount of such bond must comply with other applicable provisions of Section 035 and are equal to the total of the penalties of the separate bonds being combined into a single bond. (3-20-20)T

04. Bond Cancellation. Any surety company canceling a bond must give the department at least one

hundred twenty (120) days' notice prior to cancellation. The Director will not release a surety from liability under an existing bond until the Permittee has submitted to the Director an acceptable replacement bond or reclaimed the site. Replacement bonds must cover any liability accrued against the bonded principal under the permit. If a Permittee fails to submit an acceptable replacement bond prior to the effective date of cancellation of the original bond, or within thirty (30) days following written notice of cancellation by the Director, whichever is later, the Director may issue a cease and desist order and seek injunctive relief to stop the Permittee from conducting placer or dredge mining operations on the lands covered by the bond until such replacement has been received by the department. The Permittee must cease mining operations on lands covered by the bond until a suitable bond is filed. (3-20-20)T

05. Substitute Surety. If a surety's Idaho business license is suspended or revoked, the Permittee must, within thirty (30) days after notice by the department, find a substitute for such surety. The substitute surety must be licensed to do business in Idaho. If the Permittee fails to secure such substitute surety, the Director may issue a cease-and-desist order and seek injunctive relief to stop the Permittee from conducting placer and dredge mining operations on the lands covered by the bond until a substitution has been made. The Permittee must cease mining operations on lands covered by the bond until a bond acceptable to the department is filed. (3-20-20)T

06. Bond Reduction. Upon finding that any land bonded under a placer or dredge mining permit will not be affected by mining, the Permittee must notify the Director by submitting an application amending the permitted acreage, pursuant to Section 025. When the Director has verified that the bonding requirement for the amended permit is adequate, any excess reclamation bond will be released. Any request for bond reduction will be answered by the Director within thirty (30) days of receiving such request unless weather conditions prevent inspection. (3-20-20)T

07. Bond Release. Upon completion of the reclamation, specified in the permit, the Permittee must notify the Director in writing, of his desire to secure release from bonding. When the Director has verified that the requirements of the placer or dredge mining permit have been met, as stated in the permit, the bond will be released. (3-20-20)T

a. Any request for bond release will be answered by the Director within thirty (30) days of receiving such request unless weather conditions prevent inspection. (3-20-20)T

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: (3-20-20)T

i. Sixty percent (60%) of the bond may be released when the Permittee completes the required backfilling, regrading, topsoil replacement, and drainage control of the bonded area in accordance with the approved placer mining permit; and (3-20-20)T

ii. After revegetation activities have been performed by the Permittee on the regraded lands according to the approved placer mining permit and Section 040, the department may release an additional twenty-five percent (25%) of the bond. (3-20-20)T

c. The remaining bond will not be released: (3-20-20)T

i. As long as the disturbed lands are contributing sediment or other pollution to surface waters outside the disturbed land in excess of state water quality standards established under Title 39, Chapter 1, Idaho Code; (3-20-20)T

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 placer or dredge mining permit and bond by a new Permittee (this rule does not require a Permittee to remove equipment or structures from patented lands when the landowner has authorized the equipment and structures to remain on the site); (3-20-20)T

iii. Until all temporary sediment or erosion control structures have been removed and reclaimed or until such structures are brought under an approved placer mining permit and bond by a new Permittee; and (3-20-20)T

iv. Until vegetation productivity is returned to levels of yields at least comparable to productivity which the disturbed lands supported prior to the permitted mining, except as stated in Subsection 040.17.b. (3-20-20)T

08. Forfeiture. In accord with Subsection 050.02, a bond may be forfeited if the Director determines that the Permittee has not conducted the placer and dredge mining and reclamation in accord with the act, these rules, the approved permit, and the reclamation plan. (3-20-20)T

09. Correction of Deficiencies. The Director may, through cooperative agreement with the Permittee, devise a schedule to correct deficiencies in complying with the permit and thereby postpone action to recover the bond. (3-20-20)T

10. Bonding Rate. A Permittee 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 becomes necessary for the Director to complete reclamation to the standards established in the permit and reclamation plan. (3-20-20)T

11. Federal Bonds Recognized. The Director may accept as a bond, evidence of a valid reclamation bond with the United States government. The bond must equal or exceed the amount determined in Subsection 035.01.a. This does not release a Permittee from bonding under these rules if the Permittee fails to continuously maintain a valid federal bond. (3-20-20)T

12. Insufficient Bond. In the event the amount of the bond is insufficient to reclaim the land in compliance with the act, these rules, the approved permit, and the reclamation plan, the attorney general is empowered to commence legal action against the Permittee in the name of the Board to recover the amount, in excess of the bond, necessary to reclaim the land in compliance with the act, these rules, the approved permit, and the reclamation plan. (3-20-20)T

036. -- 039. (RESERVED)

040. BEST MANAGEMENT PRACTICES AND RECLAMATION FOR PLACER AND DREDGE MINING OPERATION.

01. Nonpoint Source Sediment Control. (3-20-20)T

a. Appropriate best management practices for nonpoint source sediment or other pollution controls must be designed, constructed, and maintained with respect to site-specific placer or dredge mining operations. Permittees will utilize best management practices designed to achieve state water quality standards and protect existing beneficial uses of adjacent surface waters. (3-20-20)T

b. State water quality standards, including protection of existing beneficial uses, are the standard that must be achieved by best management practices. In addition to proper mining techniques and reclamation measures, the Permittee will take necessary steps at the close of each operating season to assure that sediment movement or other pollution associated with surface runoff over the area is minimized in order to achieve water quality standards. (3-20-20)T

c. Sediment or pollution control measures refer to best management practices that are carried out within and, if necessary, adjacent to the disturbed land and consist of utilization of proper mining and reclamation measures, as well as specific necessary pollution control methods, separately or in combination. Specific pollution control methods may include, but are not limited to: (3-20-20)T

i. Keeping the disturbed land to a minimum at any given time through concurrent reclamation; (3-20-20)T

ii. Shaping waste to help reduce the rate and volume of water runoff by increasing infiltration; (3-20-20)T

iii. Retaining sediment within the disturbed land; (3-20-20)T

iv. Diverting surface runoff to limit water coming into the disturbed land and settling ponds; (3-20-20)T

v. Routing runoff through the disturbed land using protected channels or pipes so as not to increase sediment load; (3-20-20)T

vi. 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 (3-20-20)T

vii. Use of adequate sediment ponds, with or without chemical treatment. (3-20-20)T

02. Modification of Management Practices. If best management practices utilized by the Permittee do not result in compliance with Subsection 040.01, the Director will require the Permittee to modify or improve such best management practices to meet state water quality standards. (3-20-20)T

03. Clearing and Grubbing. Clearing and grubbing of land in preparation for mining exposes mineral soil to the erosive effects of moving water. Permittees are cautioned to keep such areas as small as possible (preferably no more than one (1) year's mining activity) as the Permittee is required to meet state water quality standards. Trees and slash should be stockpiled for use in seedbed protection and erosion control and such stockpiling may be a requirement of the approved permit. (3-20-20)T

04. Overburden/Topsoil. To aid in the revegetation of disturbed land, where placer or dredge mining operations result in the removal of substantial amounts of overburden, including any topsoil, the Permittee must remove, where practicable, the available topsoil or other growth medium as a separate operation for such area. Unless there are previously disturbed lands which are graded and immediately available for placement of the newly removed topsoil or other growth medium, the topsoil or other growth medium must be stockpiled and protected from erosion and contamination until such areas become available. (3-20-20)T

a. Overburden/topsoil removal: (3-20-20)T

i. Any overburden/topsoil to be removed will be removed prior to any other mining activity to prevent loss or contamination; (3-20-20)T

ii. Where overburden/topsoil removal exposes land area to potential erosion, the Director may, as a condition of a permit, limit the size of any one (1) area having topsoil removed at any one (1) time. (3-20-20)T

iii. Where the Permittee can show that an overburden material other than topsoil is more 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. (3-20-20)T

b. Topsoil storage. Topsoil stockpiles must be placed to minimize rehandling and exposure and to avoid excessive wind and water erosion. Topsoil stockpiles must 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. (3-20-20)T

c. Overburden storage. Stockpiled ridges of overburden must be leveled to a minimum width of ten (10) feet at the top. Peaks of overburden must be leveled to a minimum width of fifteen (15) feet at the top. The overburden piles must be reasonably prepared to control erosion using best management practices such as terracing, silt fences, chemical binders, seeding, and mulching. (3-20-20)T

05. Roads. (3-20-20)T

a. Roads must be constructed to minimize soil erosion. Such construction may require, but is not limited to, restrictions on length and grade of roadbed, surfacing of roads with durable non-toxic material,

stabilization of cut and fill slopes, and other techniques designed to control erosion. (3-20-20)T

b. All access and haul roads must be adequately drained. Drainage structures may include, but are not limited to, properly installed ditches, water-bars, cross drains, culverts, and sediment traps. (3-20-20)T

c. Culverts that are to be maintained for more than one (1) year must 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. (3-20-20)T

d. Roads and water control structures must be maintained at periodic intervals as needed. Water control structures serving to drain roads may not be blocked or restricted in any manner to impede drainage or significantly alter the intended purpose of the structure. (3-20-20)T

e. Roads that are to be abandoned must be cross-ditched, ripped, and revegetated or otherwise obliterated to control erosion. (3-20-20)T

f. Roads, not abandoned, which are to continue in use under the jurisdiction of a governmental or private landowner, are the Permittee's responsibility to comply with the nonpoint source sediment control provisions of Subsection 040.01 until the successor assumes control. (3-20-20)T

06. Settling Ponds -- Minimum Criteria. (3-20-20)T

a. Settling ponds must 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. (3-20-20)T

b. No settling pond, used for process water clarification, must be constructed to block a surface water drainage. (3-20-20)T

c. All settling ponds must be constructed and designed to prevent surface water runoff from entering the pond. (3-20-20)T

d. All settling ponds must be constructed and maintained to contain direct precipitation to the pond surface from a fifty (50) year twenty-four (24) hour storm event. (3-20-20)T

e. No chemicals may be used for water clarification or on site gold recovery without prior notification to, and approval from, the DEQ. (3-20-20)T

07. Dewatering Settling Ponds. Upon reclamation, settling ponds must be dewatered, detoxified, and stabilized. Stabilization includes regrading the site for erosion control, to the approximate original contour, and may require removal and disposal of settling pond contents. (3-20-20)T

08. Topsoil Replacement. Following completion of the requirements of Subsection 040.07, the settling ponds must be retopped with stockpiled topsoils or other soils conducive to plant growth. Where such soils are limited in quantity or not available, physical or chemical methods of erosion control may be used. All such areas are to be revegetated in accord with Subsection 040.17, unless otherwise specified in the placer mining permit. (3-20-20)T

09. Dam Safety. Settling ponds must conform with the Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code and with the Environmental Protection and Health Act, Section 39-118, Idaho Code, requiring plan and specification review and approval for waste treatment facilities. (3-20-20)T

10. Backfilling and Grading. (3-20-20)T

a. Every operator who conducts placer mining exploration operations that disturb less than one-half (1/2) acre must contour the disturbed land to its approximate previous contour. These lands must be revegetated in accordance with Subsection 040.17. For showing discovery on federal mining claims, unless otherwise required by a

federal agency, one (1) pit may be left open on each claim pending verification by federal mining examiners, but must not create a hazard to humans or animals. Such pits and trenches must be reclaimed within one (1) year of verification. (3-20-20)T

b. Every Permittee who disturbs more than one-half (1/2) acre must shape and smooth the disturbed ground to a grade reasonably comparable with the natural contour of the ground prior to mining, and to a condition that promotes the growth of vegetation except as provided in Paragraph 040.17.m. or minimize erosion through other means. Any disturbed natural watercourse must be restored to a configuration and structure conducive to good fish and wildlife habitat and recreational use. (3-20-20)T

c. Backfill materials must be compacted in a manner to ensure stability of the fill. (3-20-20)T

d. After the disturbed land has been graded, slopes will be measured by the department for compliance with the requirements of the act, these rules, the placer or dredge mining permit, and the reclamation plan. (3-20-20)T

11. Waste Disposal - Disposal of Waste in Areas Other Than Mine Excavations. Waste materials not used in backfilling mined areas must be placed, stabilized, and revegetated to ensure that drainage is compatible with the surrounding drainage and to ensure long-term stability. (3-20-20)T

a. The Permittee may, if appropriate, use terraces to stabilize the face of any fill. Slopes of the fill material may not exceed the angle of repose. (3-20-20)T

b. Unless adequate drainage is provided through a fill area, all surface water above a fill must be diverted away from a fill area into protected channels, and drainage may not be directed over the unprotected face of a fill. (3-20-20)T

12. Topsoil Redistribution. Topsoil must be spread to achieve a thickness over the regraded area, adequate to support plant life. Excessive compaction of overburden and topsoil is to be avoided. Topsoil redistribution must be timed so that seeding or other protective measures can be readily applied to prevent compaction and erosion. Final grading must be along the contour unless such grading will expose equipment operators to hazardous operating conditions, in which case the best alternative method must be used in grading. (3-20-20)T

13. Soil Amendments. Nutrients and soil amendments must, if necessary, be applied to the graded areas to successfully achieve the revegetation requirements of the permit and reclamation plan. (3-20-20)T

14. Revegetating Waste Piles. The Permittee must conduct revegetation activities with respect to such waste piles in accordance with Subsection 040.17. (3-20-20)T

15. Mulching. Mulch must be used on severe sites and may be required by the approved placer or dredge mining permit. Nurse crops 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. (3-20-20)T

16. Permanent Cessation and Time Limits for Planting. (3-20-20)T

a. Wherever possible, but not later than one (1) year after grading, seeding and planting of disturbed lands must be completed during the first favorable growth period after seedbed preparation. If permanent vegetation is delayed or slow in establishment, temporary cover of small annual grains, grasses, or legumes may be used to control erosion until adequate permanent cover is established. (3-20-20)T

b. Reclamation activities should be concurrent with the mining operation and may be included in the approved placer or dredge mining permit and reclamation plan. Final reclamation must begin within one (1) year after the placer or dredge mining operations have permanently ceased on a mine panel. If the Permittee 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 disturbed land, the reclamation activity on each given area must 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 disturbed land, has not permanently ceased. (3-20-20)T

c. A Permittee will be presumed to have permanently ceased placer or dredge mining operations on a given portion of disturbed land where 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 previous one (1) year. (3-20-20)T

d. If a Permittee does not plan to use disturbed land for one (1) or more years but intends thereafter to use the disturbed land for placer or dredge mining operations and desires to defer final reclamation until after its subsequent use, the Permittee must submit a notice of intent and request for deferral of reclamation to the Director, in writing. If the Director determines that the Permittee plans to continue the operation within a reasonable period of time, the Director will notify the Permittee and may require actions to be taken to reduce degradation of surface resources until operations resume. If the Director determines that the use of the disturbed land for placer or dredge mining operations will not be continued within a reasonable period of time, the Director will proceed as though the placer or dredge mining operation has been abandoned, but the Permittee will be notified of such decision at least thirty (30) days before taking any formal administrative action. (3-20-20)T

17. Revegetation Activities. (3-20-20)T

a. The Permittee must select and establish plant species that can be expected to result in vegetation comparable to that growing on the disturbed lands prior to placer or dredge mining operations or other species that will be conducive to the post-mining use of the disturbed lands. The Permittee may use available technical data and results of field tests for selecting seeding practices and soil amendments that will result in viable revegetation. (3-20-20)T

b. Standards for success of revegetation. Revegetative success, unless otherwise specified in the approved placer mining permit and reclamation plan, is measured against the existing vegetation at the site prior to mining, or an adjacent reference area supporting similar vegetation. (3-20-20)T

c. The ground cover of living plants on the revegetated area must 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. (3-20-20)T

d. For purposes of this rule, ground cover is considered comparable if it has, on the area actually planted, at least seventy percent (70%) of the premining ground cover for the mined land or adjacent reference area. (3-20-20)T

e. For locations with an average annual precipitation of more than twenty-six (26) inches, the Director, in approving a placer mining permit, may set a minimum standard for success of revegetation as follows: (3-20-20)T

i. Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or (3-20-20)T

ii. 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. (3-20-20)T

f. 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 measurement. Rock surface areas, composed of rock three plus (3+) inches in diameter will be excluded from this calculation. For purposes of measuring ground cover, rock greater than three (3) inches in diameter is considered as ground cover. (3-20-20)T

g. For previously mined areas that were not reclaimed to the standards required by Section 040, and that are disturbed by the placer or dredge mining operations, vegetation must be established to the extent necessary to

control erosion, but not be less than that which existed before redisturbance. (3-20-20)T

h. Introduced species may be planted if they are comparable to previous vegetation, or if known to be of equal or superior use for the approved post-mining use of the disturbed land, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous or noxious weeds may not be used in revegetation. (3-20-20)T

i. By mutual agreement of the Director, the landowner, and the Permittee, a site may be converted to a different, more desirable, or more economically suitable habitat. (3-20-20)T

j. 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. (3-20-20)T

k. The Permittee 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 must be protected from erosion by vegetation, chemical, or other acceptable means during establishment of the shrubs. (3-20-20)T

l. Reforestation -- Tree stocking of forestlands should meet the following criteria: (3-20-20)T

i. Trees that are adapted to the site should be planted on the land to be revegetated, in a density which can be expected over time to yield a timber stand comparable to premining timber stands. This in no way is to exclude the conversion of sites to a different, more desirable, or more economically suited species; (3-20-20)T

ii. Trees must be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and (3-20-20)T

iii. Forest lands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. (3-20-20)T

m. Revegetation is not required on the following areas: (3-20-20)T

i. Disturbed 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; (3-20-20)T

ii. Any mined land or overburden piles proposed to be used in the mining operations; (3-20-20)T

iii. Any mined land or overburden pile, where lakes are formed by rainfall or drainage run-off from adjoining lands; (3-20-20)T

iv. Any mineral stockpile; (3-20-20)T

v. Any exploration trench which will become a part of any pit or overburden disposal area; and (3-20-20)T

vi. Any road which is to be used in mining operations, so long as the road is not abandoned. (3-20-20)T

041. -- 049. (RESERVED)

050. TERMINATION OF A PERMIT.

01. Completion of Reclamation. A placer or dredge mining permit terminates upon completion of all

reclamation activity to the standards specified in the permit and reclamation plan, and final inspection and approval has been granted by the Director. Upon termination, the Director will release the remaining portion of the bond. (3-20-20)T

02. Involuntary Termination. For continuous operation, the bonded permit will remain valid. Administrative action may be taken to terminate a placer and dredge mining permit if: (3-20-20)T

a. The permit does not remain bonded; (3-20-20)T

b. The placer and dredge mining operations are not commenced within two (2) years of the date of Board approval; (3-20-20)T

c. The placer and dredge mining operations are permanently ceased and final reclamation has not commenced within one (1) year of the date of permanent cessation; (3-20-20)T

d. Inspection costs are delinquent; or (3-20-20)T

e. Permittee fails to comply with the act, these rules, the permit, or the reclamation plan. (3-20-20)T

051. ENFORCEMENT AND FAILURE TO COMPLY.

01. Inspection. The Director may inspect the operation under permit from time to time to determine compliance with the act, these rules, the permit, and the reclamation plan. The cost and expense of such inspections will be borne by the Permittee. (3-20-20)T

a. Cost of inspection is assessed at a flat rate of two hundred and fifty dollars ($250) per year for each permit. Permits upon U.S. Forest Service administered lands is assessed at a flat rate of one hundred dollars ($100) per year for each permit, to reflect the reduced inspection work for the department. (3-20-20)T

b. A billing for inspection costs will be made in advance each May 1, with the costs due and payable within thirty (30) days of receipt of an inspection cost statement. Inspection fees become delinquent if not paid on or before June 1, and the department may assess the greater of the following; either a twenty-five dollars ($25) late payment charge or penalty at the rate of one percent (1%) for each calendar month or fraction thereof, compounded monthly, for late payments from the date the inspection fee is due. Such costs constitute a lien upon equipment, personal property, or real property of the Permittee and upon minerals produced from the permit area. Should inspection fees be delinquent, the department will send a single notice of delinquent payment by certified mail, return receipt requested, to the Permittee. If payment is not received by the department within thirty (30) days from the date of receipt, the department may take appropriate administrative action to cancel the permit as provided by Subsection 050.02. (3-20-20)T

c. Inspection costs related to a reported violation are assessed at actual costs and in addition to those costs in Paragraph 051.01.a. Costs include mileage to and from the mine site, employee meals, lodging, personnel costs, and administrative overhead. Costs are due and payable thirty (30) days after receipt of the inspection cost statement. (3-20-20)T

02. Department Remedies. Without affecting the penal and injunctive provisions of these rules, the department may pursue the following remedies: (3-20-20)T

a. When the Director determines that a Permittee has not complied with the act, these rules, the permit, or the reclamation plan, the Director will notify the Permittee in writing and set forth the violations claimed and the corrective actions needed. (3-20-20)T

b. If the Permittee fails to commence and diligently proceed to complete the requested corrective action within a specified number of days after notice of the violation, unless a cooperative agreement has been reached pursuant to Subsection 035.09, the Director may take administrative action as provided within this rule to terminate the permit and forfeit the bond. (3-20-20)T

c. The Board may cause to have issued and served upon the Permittee alleged to be committing such violation, a formal complaint that specifies the provisions of the act, the permit, the reclamation plan, or these rules which the Permittee allegedly is violating, and a statement of the manner in and the extent to which said Permittee is alleged to be violating the provisions of the act, the permit, the reclamation plan, or these rules. Such complaint may be served by certified mail, and return receipt, signed by the Permittee, an officer of a corporate Permittee, or the designated agent of the Permittee, will constitute service. (3-20-20)T

d. The Permittee is required to answer the formal complaint and request a hearing before a hearing officer appointed by the Director, which authority to appoint is hereby delegated by the Board to the Director, within thirty (30) days of receipt of the complaint if matters asserted in the complaint are disputed. The hearing will be held at a time not less than thirty (30) days after the date the Permittee requests such a hearing. The Board will issue subpoenas at the request of the Director and at the request of the charged Permittee. The hearing will be conducted in accordance with Sections 67-5209 through 67-5213, Idaho Code, and these rules. (3-20-20)T

e. The hearing officer will enter an order in accordance with Section 67-5212, Idaho Code, that, if adverse to the Permittee, will designate a time period within which prescribed corrective action, if any, should be taken. The designated time period will be sufficient to allow a reasonably diligent Permittee to correct any violation. Procedure for appeal of an order is outlined in Subsection 002.01. (3-20-20)T

f. Upon the Permittee's compliance with the order, the Director will consider the matter resolved and take no further action with respect to such noncompliance. (3-20-20)T

g. If the Permittee fails to answer the complaint and request a hearing, the matters asserted in the complaint will be deemed admitted by the Permittee, and the Director may proceed to cancel the placer mining permit and forfeit the bond in the amount necessary to pay all costs and expense of restoring the lands and beds of streams damaged by dredge or other placer mining of said defaulting Permittee and covered by such bond and remaining unrestored, including the department's administrative costs. (3-20-20)T

03. Violation of an Order. Upon request of the Director, the attorney general may institute proceedings to have the bond of a Permittee forfeited for violation of an order entered pursuant to Subsection 051.02.e. (3-20-20)T

04. Injunctive Procedures. (3-20-20)T

a. The Director may seek injunctive relief, as provided by Section 47-1324(b), Idaho Code, against any Permittee who is conducting placer mining or exploration operations when: (3-20-20)T

i. Under an existing approved permit, reclamation plan, and bond, a Permittee violates or exceeds the terms of the permit; (3-20-20)T

ii. A Permittee violates a provision of the act or these rules; or (3-20-20)T

iii. The bond, if forfeited, would not be sufficient to adequately restore the land; (3-20-20)T

b. The Director may seek injunctive relief to enjoin a placer mining operation for the Permittee's violation of the terms of an existing approved permit, the reclamation plan, the act, and these rules, and if immediate and irreparable injury, loss, or damage to the state may be expected to occur. (3-20-20)T

c. The Director will request the court to terminate any injunction when he determines that all conditions, practices, or violations listed in the order have been abated. Termination will not affect the right of the department to pursue civil penalties for these violations in accordance with Subsection 051.06. (3-20-20)T

05. Civil Action. In addition to the injunctive provisions above, the Board may maintain a civil action against any person who violates any provision of the act or these rules, to collect civil damages in an amount sufficient to pay for all the damages to the state caused by such violation, including but not limited to, costs of restoration in accordance with Section 47-1314, Idaho Code, where a person is conducting placer or dredge mining without an approved permit or bond. (3-20-20)T

06. Civil Penalty. (3-20-20)T

a. Pursuant to Section 47-1324(d), Idaho Code, any person violating any of the provisions of the placer and dredge mining act or these rules or violating any determination or order pursuant to these rules, is liable for a civil penalty of not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500) for each day during which such violation continues. Such penalty is recoverable in an action brought in the name of the state of Idaho by the attorney general. (3-20-20)T

b. Pursuant to Section 47-1324(d), Idaho Code, any person who willfully or knowingly falsifies any records, plans, specifications, or other information required by the Board or willfully fails, neglects, or refuses to comply with any of the provisions of these rules, is guilty of a misdemeanor and will be punished by a fine of not less than one thousand dollars ($1,000) or more than five thousand dollars ($5,000) or imprisonment, not to exceed one (1) year, or both. (3-20-20)T

07. Hearing Procedures. (3-20-20)T

a. Process and procedures under these rules will be as summary and simple as may be possible. The Director, Board, or any member thereof, or the hearing officer designated by the Director, has the power to subpoena witnesses and administer oaths. The District Court will enforce the attendance and testimony of witnesses and the production for examination of books, papers, and records. A stenographic record or other recording of the hearing will be made. Witnesses subpoenaed by the Director or the hearing officer will be allowed such fees and traveling expenses as are allowed in civil actions in the District Court, to be paid by the party in whose interest such witnesses are subpoenaed. The Board, Director, or hearing officer will make such inquiries and investigations as deemed relevant. Each hearing will be held at the county seat in the county where any of the lands involved in the hearing are situate, or in the County of Ada, as the Board or Director may designate. (3-20-20)T

b. A notice of hearing will be served by certified mail to the last known address of the Permittee or his agent at least twenty (20) days prior to the hearing. A certified return receipt signed by the Permittee or his agent constitutes service and time thereof. (3-20-20)T

c. The cost of such hearing including, but not limited to, room rental, hearing officer fees, and transcript will be assessed against the defaulting Permittee. The Director may designate a hearing officer to conduct any hearings and make findings of fact, conclusions of law, and decision on issues involving the administration of the act and these rules. (3-20-20)T

d. If the hearing involves a permit or application for a permit, the decisions of the Board or the hearing officer, together with the transcript of the evidence, findings of fact, and any other matter pertinent to the questions arising during any hearing will be filed in the office of the Director. A copy of the findings of fact and decision will be sent to the applicant or holder of the permit involved in such hearing, by U.S. mail. If the matter has been assigned for hearing and a claim for review is not filed by any party in the proceeding within thirty (30) days after his decision is filed, the decision may be adopted as the decision of the Board and notice thereof will be sent to the applicant or permit holder involved in such hearing by U. S. mail. (3-20-20)T

052. -- 054. (RESERVED)

055. COMPUTATION OF TIME.

Computation of time for these rules will be based on calendar days. In computing any period of prescribed time, the day on which the designated period of time begins is not included. The last day of the period is included unless it is a Saturday, Sunday, or legal state holiday. In such a case, the 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. (3-20-20)T

056. -- 059. (RESERVED)

060. PLACER OR DREDGE MINING OF CERTAIN WATERBODIES PROHIBITED.

01. Prohibited Areas. Placer or dredge mining in any form is prohibited on water bodies making up the national wild and scenic river system: (3-20-20)T

a. The Middle Fork of the Clearwater River, from the town of Kooskia upstream to the town of Lowell; the Lochsa River from its junction with the Selway at Lowell forming the Middle Fork upstream to the Powell Ranger Station; and the Selway River from Lowell upstream to its origin; (3-20-20)T

b. The Middle Fork of the Salmon River, from its origin to its confluence with the main Salmon River; (3-20-20)T

c. The St. Joe River, including tributaries, from its origin to its confluence with Coeur d'Alene Lake, except for the St. Maries River and its tributaries. (3-20-20)T

02. Mining Withdrawals. The Board, under authority provided by Title 47, Chapter 7, Idaho Code, has withdrawn certain other lands from placer and dredge mining. A listing of such withdrawals is available from the administrative offices of the Department. (3-20-20)T

061. -- 064. (RESERVED)

065. DEPOSIT OF FORFEITURES AND DAMAGES.

01. Mining Account. All monies, forfeitures, and penalties collected under the provisions of these rules will be deposited in the Placer and Dredge Mining Account to be used by the Director for placer and dredge mine reclamation purposes and related administrative costs. (3-20-20)T

02. Funds for Reclamation. Upon approval of the Board, monies in the account may be used to reclaim lands for which the forfeited bond was insufficient to reclaim in accord with these rules, or for placer or dredge mine sites for which the bond has been released and which have resulted in subsequent damage. Monies received from inspection fees are to be kept separate and used for costs incurred by the Director in conducting such inspections. (3-20-20)T

066. -- 069. (RESERVED)

070. COMPLIANCE OF EXISTING PLANS WITH THESE RULES.
These rules, upon their adoption, apply as appropriate to all existing placer or dredge mining operations, but will not affect the validity or modify the duties, terms, or conditions of any existing approved placer or dredge mining permits or impose any additional obligations with respect to reclamation upon any Permittee conducting placer or dredge mining operations pursuant to a placer or dredge mining permit approved prior to adoption of these rules. (3-20-20)T

071. -- 999. (RESERVED)

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