LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature First Regular Session - 2019

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 141

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO MINES; AMENDING THE HEADING FOR CHAPTER 15, TITLE 47, IDAHO CODE;
AMENDING SECTION 47-1501, IDAHO CODE, TO PROVIDE THAT THE PURPOSE OF
SPECIFIED LAW SHALL ALSO APPLY TO UNDERGROUND MINES AND TO MAKE TECH-
NICAL CORRECTIONS; AMENDING SECTION 47-1502, IDAHO CODE, TO REVISE A
SHORT TITLE, TO REVISE PROVISIONS REGARDING APPLICABILITY, AND TO MAKE
TECHNICAL CORRECTIONS; AMENDING SECTION 47-1503, IDAHO CODE, TO REVISE
DEFINITIONS, TO DEFINE TERMS, AND TO MAKE TECHNICAL CORRECTIONS; AMEN-
DING SECTION 47-1505, IDAHO CODE, TO REVISE THE DUTIES AND POWERS OF THE
BOARD OF LAND COMMISSIONERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
SECTION 47-1506, IDAHO CODE, TO REVISE OPERATOR DUTIES; AMENDING SEC-
TION 47-1507, IDAHO CODE, TO REVISE REFERENCE TO MINING OPERATIONS RE-
GARDING RECLAMATION PLANS AND TO MAKE TECHNICAL CORRECTIONS; AMEN-
DING SECTION 47-1508, IDAHO CODE, TO REVISE REFERENCE TO MINING OPERATIONS
REGARDING AMENDED AND SUPPLEMENTAL PLANS, TO PROVIDE FOR REVIEW OF
RECLAMATION PLANS AND PERMANENT CLOSURE PLANS, TO PROVIDE FOR FEES, TO
PROVIDE THAT CERTAIN DETERMINATIONS SHALL BE CONSIDERED FINAL ORDERS,
AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1509, IDAHO
CODE, TO REVISE REFERENCE TO MINING OPERATIONS REGARDING PROCEDURES IN
RECLAMATION, TO REVISE SPECIFIED RECLAMATION ACTIVITIES, AND TO MAKE
TECHNICAL CORRECTIONS; AMENDING SECTION 47-1510, IDAHO CODE, TO REVISE
REFERENCE TO MINING OPERATIONS REGARDING VEGETATION PLANTING AND TO
MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1511, IDAHO CODE, TO
REVISE REFERENCE TO MINING OPERATIONS REGARDING RECLAMATION ACTIVI-
TIES AND TIME LIMITATIONS AND TO MAKE A TECHNICAL CORRECTION; AMEN-
DING SECTION 47-1512, IDAHO CODE, TO PROVIDE FOR FINANCIAL ASSURANCE AND
TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1513, IDAHO CODE,
TO REVISE PROVISIONS REGARDING AN OPERATOR'S FAILURE TO COMPLY AND TO
MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1516, IDAHO CODE, TO
REVISE REFERENCE TO MINED LAND REGARDING THE DEPOSIT OF FORFEITURES
AND DAMAGES; AMENDING SECTION 47-1517, IDAHO CODE, TO REVISE REFERENCE
TO MINING OPERATIONS REGARDING COMPLIANCE WITH CERTAIN STATUTES AND
REGULATIONS; AND AMENDING SECTION 47-1518, IDAHO CODE, TO PROVIDE AN
EXEMPTION FROM RECLAMATION FOR CERTAIN SURFACE MINE OPERATORS, TO PRO-
VIDE FOR APPLICABILITY, AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That the Heading for Chapter 15, Title 47, Idaho Code, be,
and the same is hereby amended to read as follows:

CHAPTER 15

SURFACE MINING MINED LAND RECLAMATION
SECTION 2. That Section 47-1501, Idaho Code, be, and the same is hereby amended to read as follows:

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

SECTION 3. That Section 47-1502, Idaho Code, be, and the same is hereby amended to read as follows:

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

SECTION 4. That Section 47-1503, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

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

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

(7) "Surface mining operations" means the activities performed on the surface of a surface or underground mine in the extraction of minerals from the ground, including the excavating of pits, removal of minerals, disposal of overburden, and the construction of haulage roads, exclusive of exploration operations, except that any exploration operations which, exclusive of exploration roads, (a) result during a period of twelve (12) consecu-
tive months in more than five (5) contiguous acres of newly affected land, or
(b) which, exclusive of exploration roads, result during a period of twelve
(12) consecutive months in newly affected land consisting of more than ten
(10) noncontiguous acres, if such affected land constitutes more than fif-
teen percent (15%) of the total area of any circular tract which that in-
cludes such affected land, shall be deemed to be a surface mining operation
for the purposes of this chapter.

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

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

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

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

(12) "Overburden" or "waste rock" means material extracted by an oper-
ator which is not a part of the material ultimately removed from a sur-
face mine or underground mine and marketed by an operator, exclusive of min-
eral stockpiles.

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

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

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

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

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

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

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

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

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

(22) "Pit" means an excavation created by the extraction of minerals or
overburden during at a surface mining operation mine.
(243) "Ridge" means a lengthened elevation of overburden.

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

(245) "Operator" means any person or persons, any partnership, limited partnership, or corporation, or limited liability company, or any association of persons, either natural or artificial, including, but not limited to, every public or governmental agency engaged in surface mining operations or exploration operations or in operating a cyanidation facility, whether individually, jointly, or through subsidiaries, agents, employees, or contractors, and shall mean every governmental agency owning or controlling the use of any surface mine when the mineral extracted is to be used by or for the benefit of such agency. It shall not include any such governmental agency with respect to those 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 this chapter.

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

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

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

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

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

SECTION 5. That Section 47-1505, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(2) To conduct and promote the coordination and acceleration of research, studies, surveys, experiments, demonstrations and training in carrying out the provisions of this chapter. In carrying out the activities authorized by this section, the board may enter into contracts with and make grants to institutions, agencies, organizations and individuals and shall collect and make available any information obtained therefrom.
(3) To adopt and promulgate reasonable rules respecting the administration of this chapter and such rules as may be necessary to carry out the intent and purposes of this chapter, provided that no rules shall be adopted which require reclamation activities in addition to those set forth in this chapter. All such rules shall be adopted in accordance with and subject to the provisions of chapter 52, title 67, Idaho Code.

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

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

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

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

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

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

SECTION 6. That Section 47-1506, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) A map of the mine panel on which said operator desires to conduct surface mining operations, which sets forth with respect to said panel the following:
(i) The location of existing roads and anticipated access and main haulage roads planned to be constructed in conducting the surface mining operations.
(ii) The approximate boundaries of the lands to be utilized in the process of surface mining operations.
(iii) The approximate location and, if known, the names of all streams, creeks, or bodies of water within the area where surface mining operations shall take place.
(iv) The name and address of the person to whom notices, orders, and other information required to be given to the operator pursuant to this chapter may be sent.
(v) The drainage adjacent to the area where the surface is being utilized by surface mining operations.
(vi) The approximate boundaries of the lands that will become affected lands as a result of surface mining operations during the year immediately following the date that a reclamation plan is approved as to said panel, together with the number of acres included within said boundaries.
(vii) A description of foreseeable, site-specific, nonpoint sources of water quality impacts upon adjacent surface waters, and the best management practices that will be used to control such nonpoint source impacts from mining operations and proposed water management activities to comply with water quality requirements.
(viii) A description of foreseeable, site-specific impacts from acid rock drainage and the best management practices that will be used to mitigate the impacts, if any, from such acid rock drainage post-closure activities.

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

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

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

(i) Maps showing the location of existing roads and anticipated access and main haulage roads planned to be constructed for surface mining operations.
(ii) The boundaries and acreage of the lands to be utilized in the process of surface mining operations.
(iii) Maps showing the planned location of pits, mineral stockpiles, overburden piles and tailings ponds for the surface mining operations.
(iv) The location and, if known, the names of all streams, creeks, or bodies of water within the area where surface mining operations shall take place.
(v) The drainage adjacent to the area where the surface is being utilized by surface mining operations.
(vi) The approximate boundaries and acreage of the lands that will 
become affected during the first year of construction of surface 
mining operations.

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

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

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

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

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

The notice shall be subject to disclosure according to chapter 1, title 74, 
Idaho Code.

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

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

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

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

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

SECTION 7. That Section 47-1507, Idaho Code, be, and the same is hereby
amended to read as follows:

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

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

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

(d) For the purpose of determining whether a proposed plan or amended or
supplemental plan complies with the requirements of this chapter, the board
may, in its discretion, call for a public hearing. The hearing shall be held
under such rules as promulgated by the board. Any interested person may ap-
pear at the hearing and give testimony. At the discretion of the board, the
director may conduct the hearing and transmit a summary thereof to the board.
Any hearing held shall not extend the period of time limit in which the board
must act on a plan submitted.
SECTION 8. That Section 47-1508, Idaho Code, be, and the same is hereby amended to read as follows:

47-1508. AMENDED PLAN -- SUPPLEMENTAL PLAN -- SUBMISSION. (a) In the event that a material change in circumstances arises which that the operator, or the board, believes requires a change in an approved plan, including any amended plan, then the operator shall submit to the board a supplemental plan setting forth the proposed changes and the board shall likewise set forth its proposed changes and stating state the reasons therefor. Upon determination by the board that a supplemental plan or any amended supplemental plan submitted by the operator meets the requirements of this chapter, it shall deliver to the operator, in writing, a notice of approval of said supplemental plan, and thereafter said supplemental plan shall govern and determine the nature and extent of the obligations of the operator for compliance with respect to the mine panel or cyanidation facility for which the plan was submitted.

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

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

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

(e) At least once every five (5) years, the board shall review recla-
mation plans and revise if necessary to meet the requirements of sections
47-1506, 47-1509, 47-1510, and 47-1511, Idaho Code, when there is a mate-
rial change in the reclamation plan. As part of this review, the board shall
revise the amount, terms, and conditions of any financial assurance when
there is a material change in the reclamation plan or a material change in the
estimated reasonable costs of reclamation determined pursuant to section
47-1512, Idaho Code. Any such revision shall apply only to the affected
lands covered by the material change.

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

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

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

SECTION 9. That Section 47-1509, Idaho Code, be, and the same is hereby
amended to read as follows:

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

(1) Ridges of overburden shall be leveled in such manner as to have a
minimum width of ten (10) feet at the top.
(2) Peaks of overburden shall be leveled in such a manner as to have a
minimum width of fifteen (15) feet at the top.
(3) Overburden piles shall be reasonably prepared to control erosion.
(4) Where water run-off from affected lands results in stream or lake
siltation in excess of that which normally results from run-off, the
operator shall prepare affected lands and adjacent premises under the
control of the operator Manage water as necessary to meet the require-
ments authorized under chapter 1, title 39, Idaho Code.
(5) Roads which are abandoned shall be cross-ditched insofar as
necessary to avoid erosion gullies.
(6) Exploration drill holes shall be plugged or otherwise left so as to eliminate hazards to humans or animals.

(7) Abandoned affected lands shall be topped to the extent that such overburden is reasonably available from the pit, with that type of overburden which is conducive to the control of erosion or the growth of the vegetation which the operator elects to plant thereon.

(8) The operator shall conduct revegetation activities on the mined areas, overburden piles, and abandoned roads in accordance with the provisions of this act.

(9) Tailings ponds shall be reasonably prepared in such a condition that they will not constitute a hazard to human or animal life.

(10) Complete all other reclamation required in the approved reclamation plan.

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

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

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

SECTION 10. That Section 47-1510, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

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

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

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

(3) On any mineral stockpile.

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

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

SECTION 11. That Section 47-1511, Idaho Code, be, and the same is hereby amended to read as follows:
47-1511. RECLAMATION ACTIVITIES -- TIME LIMITATIONS. (a) All reclamation activities required to be conducted under this act shall be performed in a good and workmanlike manner, with all reasonable diligence, and as to a given exploration drill hole, road or trench, within one (1) year after abandonment thereof.

(b) The reclamation activity as to a given mine panel shall be commenced within one (1) year after surface mining operations have permanently ceased as to such mine panel, provided, however, that in the event that during the course of surface mining operations on a given mine panel, the operator permanently ceases disposing of overburden on a given overburden pile, or permanently ceases removing minerals from a given pit, or permanently ceases using a given road or other affected land, then the reclamation activities to be conducted hereunder as to such pit, road, overburden pile, or other affected land, shall be commenced within one (1) year after such termination, despite the fact that all operations as to the mine panel, which includes such pit, road, overburden pile, or other affected land, have not permanently ceased. It shall be presumed that the operator has permanently ceased surface mining operations as to a given affected land if no substantial amount of overburden has been placed on the overburden pile in question or if no minerals have been removed from the pit in question, as the case may be, for a period of three (3) years.

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

SECTION 12. That Section 47-1512, Idaho Code, be, and the same is hereby amended to read as follows:

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

(1) The penalty of the initial reclamation bond financial assurance filed prior to conducting any surface mining operations on a mine panel shall be in an amount determined by the board to be the estimated reasonable costs of reclamation required in this chapter, in the event of failure to reclaim by an operator, of affected lands proposed to be mined during the next calendar year plus ten percent (10%) of such costs as to the acreage of affected land designated by the operator pursuant to section 47-1506(a)(1)(vi), Idaho Code, and subsection (b) of this section.

(2) The penalty of the initial permanent closure bond financial assurance filed prior to operating a cyanidation facility shall be in an amount determined by the board to be the estimated reasonable costs to
complete the activities specified in the permanent closure plan re-
quired in this chapter, in the event of the failure of an operator to
complete those activities, plus ten percent (10%) of such costs. In
setting the bond such amount, the board shall avoid duplication with
bonds and sureties financial assurance deposited with other governmen-
tal agencies.
(3) The determination of the bond financial assurance amount shall con-
stitute a final decision order subject to judicial review as set forth
in subsection (a) of section 47-1514, Idaho Code. In lieu of any bond
financial assurance required hereunder, the operator may deposit cash
and governmental securities with the board, in an amount equal to that
of the required bond financial assurance, on the conditions as pre-
scribed in this section.
(b) Prior to the time that lands designated to become affected lands
on a mine panel, in addition to those designated pursuant to section
47-1506(a)(1)(vi), Idaho Code, become affected land, the operator shall
submit to the board a bond financial assurance meeting the requirements of
section 47-1512(c), Idaho Code, and the penalty of such bond which shall be
in the amount necessary to insure the performance of the duties of the
operator under this chapter as to such affected lands actually proposed to be
mined within the next calendar year. If additional acreage is subsequently
proposed to be mined by an operator, the penalty of such bond financial as-
surance shall be in an amount determined by the board to be the estimated
reasonable costs of reclamation required by this chapter, in the event of
failure to reclaim by an operator, of affected lands proposed to be mined
during the next calendar year plus ten percent (10%) of such costs.
(c) Except as provided in this subsection, no bond for mining opera-
tions with affected land greater than five (5) acres, the financial assur-
ance amount shall be based on the estimated reasonable costs of completing
reclamation required in this chapter using standard estimating techniques,
including indirect costs, developed by the board. For all other mining oper-
ations, the financial assurance for reclamation submitted pursuant to this
chapter shall not exceed fifteen thousand dollars ($15,000) for any given
acre of such affected land. The board may require a bond financial assur-
ance in excess of fifteen thousand dollars ($15,000) for any given acre of
affected land only when the following conditions have been met:
(1) The board has determined that such bond financial assurance is nec-
essary to meet the requirements of sections 47-1506, 47-1509, 47-1510
and 47-1511, Idaho Code.
(2) The board has delivered to the operator, in writing, a notice set-
ting forth the reasons it believes such bond financial assurance is nec-
essary.
(3) The board has conducted a hearing where the operator is allowed to
give testimony to the board concerning the amount of the proposed bond
financial assurance. The hearing shall be held under such rules as pro-
mulgated by the board. This requirement for a hearing may be waived, in
writing, by the operator. Any hearing held shall, at the discretion of
the director, extend the time, up to thirty (30) days, in which the board
must act on a plan submitted.
(d) Except as provided in this subsection, no bond for a cyanidation facility with affected land greater than five (5) acres, the financial assurance amount shall be based on the estimated reasonable costs to complete reclamation required under this chapter using standard estimating techniques, including indirect costs, developed by the board. For all other cyanidation facilities, the financial assurance submitted for permanent closure of a cyanidation facility pursuant to this chapter shall not exceed five million dollars ($5,000,000). The board may require a bond financial assurance in excess of five million dollars ($5,000,000) for a cyanidation facility only when the following conditions have been met:

1. The board has determined that such bond financial assurance is necessary to meet the requirements of this chapter.
2. The board has delivered to the operator, in writing, a notice setting forth the reasons it believes such bond financial assurance is necessary.
3. The board has conducted a hearing where the operator is allowed to give testimony to the board concerning the amount of the proposed bond financial assurance. The hearing shall be held under such rules as promulgated by the board. This requirement for a hearing may be waived, in writing, by the operator. Any hearing held shall, at the discretion of the director, extend the time, up to sixty (60) days, in which the board must act on the permanent closure plan submitted.

(e) Any bond financial assurance required under this chapter to be filed and maintained with the board shall be in such form as the board prescribes, payable to the state of Idaho, conditioned that the operator shall faithfully perform all requirements of this chapter and comply with all rules of the board in effect as of the date of approval of the plan in accordance with the provisions of this chapter. An operator may at any time file a single bond in lieu of separate bonds filed or to be filed pursuant to this chapter, provided that the penalty of such single bond shall be equal to the total of the penalties of the separate bonds being combined into a single bond. Further, any bond financial assurance provided to another governmental agency that also meets the requirements in this section shall be deemed to be sufficient surety for the purposes of this chapter.

(f) A bond financial assurance filed as above prescribed in this section shall not be cancelled by the surety canceled, except after not less than ninety (90) days' notice to the board. Upon failure of the operator to make substitution of surety financial assurance prior to the effective date of cancellation of the bond financial assurance or within thirty (30) days following notice of cancellation by the board, whichever is later, the board shall have the right to issue a cease and desist order and seek injunctive relief to stop the operator from conducting operations covered by such bond financial assurance until such substitution has been made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 13. That Section 47-1513, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(c) The forfeiture of such bond financial assurance shall fully satisfy all obligations of the operator to reclaim the affected land or complete permanent closure activities under the provisions of this chapter. If the violation involves an operator that has not furnished a bond financial assurance required by this chapter, or an operator that is not required to furnish a bond financial assurance pursuant to this chapter, or an operator who violates this chapter by performing an act not included in the original approved
reclamation plan or the original approved permanent closure plan, and such
departure from the plan is not subsequently approved, such operator shall
be subject to a civil penalty for his failure to comply with such order in
the amount determined by the board to be the anticipated cost of reasonable
reclamation of affected lands or permanent closure of the cyanidation facili-
ty. Nothing in this subsection shall relieve the operator of any obliga-
tion, including the obligation to complete closure requirements, pursuant
to a permit issued by the department of environmental quality under section
39-118A, Idaho Code, or limit that department's authority to require compli-
ance with such permit requirements.

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

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

(f) In addition to the procedures set forth in subsections (a), (d) and
(e) of this section, and in addition to the civil penalty provided in subsec-
tion (c) of this section, any operator who violates any of the provisions of
this chapter or rules adopted pursuant thereto, or who fails to perform the
duties imposed by these provisions, or who violates any determination or or-
der promulgated pursuant to the provisions of this chapter, shall be liable
to a civil penalty of not less than five hundred dollars ($500) nor more than
two thousand five hundred dollars ($2,500) for each day during which such vi-
olation continues, and in addition may be enjoined from continuing such vi-
olation. Such penalties shall be recoverable in an action brought in the name
of the state of Idaho by the attorney general in the district court for the
county where the violation, or some part thereof, occurs, or in the district
court for the county wherein the defendant resides.

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

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

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

(h) Reclamation plans approved by the board as of January 1, 1997 July
1, 2019, shall be deemed to be in full compliance with the requirements of
this chapter. However, the board may periodically review, and revise if
necessary to meet the requirements of sections 47-1506, 47-1509, 47-1510
and 47-1511, Idaho Code, the amount, terms and conditions of any bond when
there is a material change in the reclamation plan or a material change in the
estimated reasonable costs of reclamation determined pursuant to section
47-1512, Idaho Code. Any revision to the amount, terms and conditions of a
bond due to a material change in the reclamation plan shall apply only to the
affected lands covered by the material change in the reclamation plan.

(i) A cyanidation facility with an existing permit approved by the de-
partment of environmental quality under section 39-118A, Idaho Code, as of
July 1, 2005, shall be deemed to be in full compliance with the requirements
of this chapter. If there is a material modification or a material expansion
of a cyanidation facility after July 1, 2005, the provisions of this chapter
shall apply to the modification or expansion. Provided however, that recla-
mation or closure related activities at a facility with an existing cyanida-
tion permit that did not actively add cyanide after January 1, 2005, shall
not be considered to be material modifications or a material expansion of the
facility.

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

SECTION 14. That Section 47-1516, Idaho Code, be, and the same is hereby amended to read as follows:

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

SECTION 15. That Section 47-1517, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

SECTION 16. That Section 47-1518, Idaho Code, be, and the same is hereby amended to read as follows:

47-1518. EFFECTIVE DATE -- APPLICATION OF CHAPTER. (a) The reclamation provisions of this chapter shall be in full force and effect on and after May 31, 1971. An surface mine operator shall not be required to perform the reclamation activities referred to in this chapter as to any surface mining operations performed prior to May 31, 1972, and further, shall not be required to perform such reclamation activities as to any pit or overburden pile as it exists prior to May 31, 1972.

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

(c) An underground mine operator shall not be subject to this chapter for affected land disturbed by underground mine operations prior to July 1, 2019. If there is a significant change to affected land at an underground mining operation after July 1, 2019, the provisions of this chapter shall apply to the significant change.
(d) The financial assurance and post-closure provisions of this chapter amended in 2019 shall be in force and effect on or after July 1, 2019. Provided that the financial assurance and post-closure provisions of this chapter amended in 2019 shall not apply to:

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

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

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