



# IDAHO DEPARTMENT OF LANDS

## RESOURCE PROTECTION AND ASSISTANCE BUREAU

### Mined Land Reclamation Act Overview

Mining operations include 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, the construction of haulage roads, and other related activities. In Idaho, minerals mined by this method include decorative stone, sand and gravel, phosphate, molybdenum, gold, silver, and others. The Mined Land Reclamation Act, passed in 1971, was designed to require reclamation of affected lands and return them to a productive condition. A few changes have been made over the years, but the basic components of the 1971 Act still stand:

- Mining requires an approved reclamation plan;
- Each approved reclamation plan must have a performance bond;
- Exploration using motorized earth moving equipment requires a notice;
- Water quality must be maintained and affected lands and disturbed watercourses must be reclaimed;
- Penalties for violation of the Act will be enforced.

Any person who conducts mining of minerals for ultimate or immediate sale, in either the natural or processed state, must first have a reclamation plan approved by the Idaho Department of Lands (IDL). Public or governmental agencies mining sand and gravel in excess of two acres for purposes of maintenance, repair or construction of a public highway must file a reclamation plan with IDL; however, no bond is required. Existing underground mines do not have to file a reclamation plan until they exceed the surface disturbance that existed on July 1, 2019 by 50% or more. New underground mines must submit a reclamation plan prior to starting operations.

IDL, as the lead agency for implementing the antidegradation policy for mining, may solicit comments from the Idaho Departments of Fish and Game, Water Resources, and Environmental Quality. A site review with these agencies will be conducted prior to plan approval if necessary. Review takes from thirty to sixty days. A format for submission of a plan is available from IDL. Approved plans are good for the life of the operation and are transferable. There are currently more than 1,500 approved plans in Idaho, most of which are active. The Act applies to all lands in the State, including private, state, and federal (U.S. Forest Service (USFS) and Bureau of Land Management (BLM)). On federal lands, an operating plan may be required by the surface management agency, usually USFS or BLM. Under authority of Memorandums of Understanding (MOUs) with the USFS and BLM, one plan should be developed for the state and the federal agency involved. On national forest system lands, the USFS assumes the role of a lead agency. When an operation is larger than five acres on BLM land, the BLM assumes the role of lead agency.

#### **Financial Assurance**

Financial assurance is required as a condition of reclamation plan approval to assure the completion of reclamation. Financial assurance can be either a surety bond, cash, certificate of deposit, time deposit receipt, letter of credit, real property, trust fund, corporate guarantee, or an annual payment to the Bond Assurance Fund (BAF). The amount of financial assurance is the amount necessary to reclaim the lands.

For disturbance of five (5) acres or less, the financial assurance amount will be at least five thousand dollars (\$5,000) per disturbed acre, and it may exceed fifteen thousand dollars (\$15,000) per disturbed acre under certain conditions. For disturbance greater than five (5) acres, the financial assurance will be the amount necessary for IDL to pay the estimated reasonable costs of reclamation required under the reclamation plan, including indirect costs. IDL and the operator agree at the time of plan approval on the financial assurance amount for lands to be affected during the next 12-month period. The operator must then submit additional financial assurance prior to disturbing additional lands in subsequent years. If the operator defaults on the reclamation performance, a hearing may be required to recover the financial assurance. The operator is given an opportunity to do the reclamation or contract it out before the financial assurance is cashed.

## **Public Hearing**

If IDL determines, after consultation with the Departments of Water Resources, Fish and Game, Environmental Quality and affected Indian tribes, that a proposed mining operation can reasonably be expected to significantly degrade adjacent surface waters, a public hearing will be conducted. Measures to protect water quality from nonpoint source water pollution will be discussed at the hearing. When there is reasonable potential for nonpoint source pollution, the director will require that the operator provide IDL with baseline pre-project surface water monitoring information and ongoing monitoring data during the life of the project.

## **Water Quality – Reclamation**

Every mining operation must maintain state water quality standards by implementing Best Management Practices (BMPs) to protect existing beneficial uses from nonpoint sources of pollution. Operations often use settling ponds or tailings ponds to recycle process water in a closed system. Discharge of process waters to any surface water requires an Idaho Pollutant Discharge Elimination System (IPDES) Permit from the Idaho Department of Environmental Quality.

Upon completion of mining or concurrently on large operations, affected lands must be backfilled, graded, topsoil replaced if present, and stabilized with vegetation. Some areas are better left as ponds for wildlife habitat. The reclamation is planned as part of the overall mining operation at the time of permit approval.

## **Site Inspections**

IDL is required by the Act to conduct periodic inspections to review compliance with the approved reclamation plan. Inspections and updates from the operator are required at least every five years. If a violation is found, a remedy is discussed with the operator and a period of time is allowed for corrective action. On federal lands, the USFS and BLM monitor the permits and coordinate with the Department of Lands on compliance problems.

## **Penalties**

The Act allows the State to enjoin any operator who does not have an approved reclamation plan or financial assurance. Violation of the Act carries a civil penalty of \$500 to \$2,500 per day for each day of violation. If a person willfully violates the Act, he is liable for fines of \$1,000 to \$5,000, or up to a year in prison, or both. Additionally the State may seek costs to reclaim lands affected by the mining operation.