

EXISTING PROGRAMS AND REGULATORY AUTHORITY

The following section describes existing programs and intergovernmental coordination of key state and federal agencies with authority to issue permits for new mining or mineral processing operations. These agencies also have the authority to require BMP's or measures to control nonpoint sources of pollution from mining and mineral processing operations. Federal agencies are included because a majority of surface mines are located on federal lands. As a result, the federal surface management agency often takes the lead role in administering a permitted activity. Also, Section 319 of the Clean Water Act requires federal consistency with state nonpoint source management programs and provides for state review of federal development projects. This section reflects the regulatory authority as it exists at the present time.

Inquiries concerning any of the following laws or agencies, may be directed to the appropriate field office, shown in the State/Federal Mine Permit Guide. See Appendix B.

MINING AND WATER QUALITY PROTECTING IN IDAHO

A SUMMARY OF STATE LAWS AND REGULATIONS

DEPARTMENT OF LANDS

BUREAU OF MINERALS

**RULES AND REGULATIONS GOVERNING DREDGE AND
PLACER MINING OPERATIONS IN IDAHO**

Title 47 Chapter 13 Idaho Code

SCOPE

These rules apply to all dredge and placer mining or exploration operations conducted within the State, regardless of land ownership.

EXPLORATION OPERATIONS AND REQUIRED RECLAMATION

Any operator desiring to conduct exploration using motorized earth moving equipment shall notify the Department of Lands by certified mail within seven (7) days of beginning the exploration operations. This letter must include the name and address of the operator, a legal description of the exploration operation, starting and estimated completion dates, anticipated size, and general method of operation. This letter shall be treated as confidential in accordance with applicable state laws and regulations. Reclamation shall consist of recontouring and revegetating the affected lands where possible. If the affected lands cannot be recontoured, they must be shaped, graded and revegetated as necessary to ensure that State water quality standards are achieved, or to reestablish the conditions of runoff water quality prior to commencing the exploration operations, whichever is the lesser standard.

APPLICATION REQUIREMENTS AND PROCEDURES

An operator must submit five (5) copies of an application package along with a \$50.00 application fee for each ten acres, or fraction thereof. An application package consists of an application provided by the director, a map or maps of the proposed mining operation which include vicinity maps of the mine area, detailed mine maps which show all aspects of the operation, and a surface and mineral control map of appropriate scale for boundary identification. A reclamation plan must be submitted in map and narrative form which shows the surface profiles before and after mining, all roads which will be reclaimed, a plan for revegetation of the affected lands, reclamation of tailings ponds, and an estimate of total reclamation costs. An operator must also submit a water management plan which identifies and assesses the foreseeable site specific nonpoint sources of water quality impacts upon adjacent surface waters, and the best management practices that the operator will use to control these nonpoint impacts. An out-of-state operator must designate an in-state agent. A complete application should be submitted to the area office for review by the appropriate mineral resource technician.

PROCEDURES FOR REVIEW

The appropriate mineral resource technician or bureau will review all applications for completeness within fourteen days of receipt. Incomplete applications will be returned to the operator within thirty days of the initial application date. Complete applications will be forwarded immediately to the Department of Fish & Game, Division of Environmental Quality and Department of Water Resources. A field review of the proposal will be scheduled with the operator and coordinating agencies. After a field review, a recommendation for approval or denial will be sent to the State Board of Land Commissioners, usually within 90 days of receipt of the application. Public hearings may be required to gather public input on the adequacy of the permit application, environmental impacts, and with respect to water quality protection measures. Annual inspection fees of \$100 on federal lands and \$250 on BLM and private lands.

BONDING

Bonding is required. The reclamation bond shall be the estimated reasonable cost of reclamation required under the plan and the rules for each acre of land which is permitted, plus ten (10%) percent. Acceptable forms of bond include surety, certificate of deposit, cash, and letter of credit.

CLOSURE AND BOND RELEASE

All requests for bond release should be made to the Bureau of Minerals in writing. The Bureau will respond to all requests for bond release within thirty days of receipt of the request. When the operator has completed the required backfilling, regrading, topsoiling and drainage control, sixty (60%) percent of the bond may be released. After revegetation activities have been completed, an additional twenty-five (25%) of the bond will be released. The remaining bond shall be released when all reclamation and fertilization requirements have been met as described in the reclamation plan and the Rules.

IDAHO DEPARTMENT OF LANDS BUREAU OF MINERALS

RULES AND REGULATIONS GOVERNING EXPLORATION AND SURFACE MINING OPERATIONS IN IDAHO

Title 47 Chapter 15 Idaho Code

SCOPE

These rules apply to all surface mining or exploration operations conducted within the State, regardless of land ownership.

EXPLORATION OPERATIONS AND REQUIRED RECLAMATION

Any operator desiring to conduct exploration using motorized earth moving equipment shall notify the Department of Lands by certified mail within seven (7) days of beginning the exploration operations. This letter must include the name and address of the operator, a legal description of the exploration operation, starting and estimated completion dates, anticipated size, and general method of operation. This letter shall be treated as confidential in accordance with applicable state laws and regulations. Reclamation shall consist of recontouring and revegetating the affected lands where possible. If the affected lands cannot be recontoured, they must be shaped, graded and revegetated as necessary to ensure that State water quality standards are achieved, or to reestablish the conditions of runoff water quality prior to commencing the exploration operations, whichever is the lesser standard.

APPLICATION REQUIREMENTS AND PROCEDURES

An operator must submit five (5) copies of a surface mine application package. An application package consists of an application provided by the director, a map or maps of the proposed mining operation which include vicinity maps of the mine area, detailed mine maps which show all aspects of the operation, and a surface and mineral control map of appropriate scale for boundary identification. A reclamation plan must be submitted in map and narrative form which shows the surface profiles before and after mining, all roads which will be reclaimed, a plan for revegetation of the affected lands, reclamation of tailings ponds, and an estimate of total reclamation costs. An operator must also submit a water management plan which identifies and assesses the foreseeable site specific nonpoint sources of water quality impacts upon adjacent surface waters, and the best management practices that the operator will use to control these nonpoint impacts. A complete reclamation plan application should be submitted to the area office for review by the appropriate mineral resource technician.

PROCEDURES FOR REVIEW

The appropriate mineral resource technician or bureau will review all applications for completeness within fourteen days of receipt. Incomplete applications will be returned to the operator within thirty days of the initial application date. Complete applications will be forwarded immediately to the Department of Fish & Game, Division of Environmental Quality and Department of Water Resources. A field review of the proposal will be scheduled with the operator and coordinating agencies. After a field review, a recommendation for approval or denial will be sent to the director. An notice of approval or denial will be sent to the applicant within 60 days of the application date. Public hearings may be required to gather public input on the adequacy of the permit application, environmental impacts, and with respect to water quality protection measures.

BONDING

Bonding is required. The reclamation bond shall be the estimated cost of reclamation for each acre of land which is permitted. Acceptable forms of bond include surety, certificate of deposit, cash, and letter of credit.

CLOSURE AND BOND RELEASE

All requests for bond release should be made to the Bureau of Minerals in writing. The Bureau will respond to all requests for bond release within thirty days of receipt of the request. When the operator has completed the required backfilling, regrading, topsoiling and drainage control, sixty (60%) percent of the bond may be released. After revegetation activities have been completed, an additional twenty-five (25%) of the bond will be released. The remaining bond shall be released when all reclamation and fertilization requirements have been met as described in the reclamation plan and the Rules.

DEPARTMENT OF HEALTH & WELFARE

Mining and milling operations in Idaho are required to comply with the Environmental Protection and Health Act of 1972 (Idaho Code title 39). The policy of the Act is "to provide for the protection of the environment and the promotion of personal health and to thereby protect and promote the health, safety, and general welfare of the people of this state."

Water pollution control requirements are administered by the Department of Health and Welfare (IDHW), Division of Environmental Quality.

Water pollution control requirements in Idaho are also sanctioned under the Federal Waste Pollution Control Act. This law is administered by the U.S. Environmental Protection Agency (EPA) in cooperation with the IDHW.

1. Water Quality Standards. (Idaho Code title 39, section 101)

All waters of the state are protected for appropriate beneficial uses. Specific standards and designated uses for the waters of the state are defined in Idaho Water Quality Standards and Wastewater Treatment Requirements.

2. Review of Plans and Specifications for Wastewater Treatment Facilities. (Idaho Code title 39, section 118)

All plans and specifications for new and/or modified wastewater collection or treatment facilities must be approved by IDHW before construction of the facilities may begin. This requirement applies to mine and mill wastewater treatment facilities and tailings impoundments regardless of whether the facility discharges to state waters or is self-contained.

3. Ore Processing by Cyanidation. (Idaho Code title 39, section 118A)

All plans and specifications must be submitted to and approved by IDHW. All plans and specifications must be certified by registered professional engineers. Rules and regulations are available through IDHW.

4. Federal Clean Water Act. (section 319)

Amendments passed in 1987 called for implementation of non-point source programs to improve water quality in degraded streams. The Idaho Nonpoint Source Assessment and Nonpoint Source Management Program were completed in 1989. IDHW is the designated state agency for implementation of this program.

5. National Pollutant Discharge Elimination System (NPDES).

EPA is responsible for issuance and enforcement of NPDES permits under the authority of Section 402, FWPCA. For specific mining effluent requirements, you must contact the EPA. IDHW assists EPA by determining discharge limitations (treatment requirements) according to the water quality standards of the receiving waters (see #1). In some cases, the discharge may not be allowed if the standards cannot be met. An NPDES permit is required for any point source discharge to surface water, including mine drainage water and mine and mill wastewater.

Inquiries concerning these laws may be directed to the field offices shown on the attached map.

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources administers three (3) statutes under Idaho law which directly or indirectly affect mining and milling activities. The statutes include water right appropriations, the Stream Channel Alteration Act and the Safety of Dams Act. Inquiries concerning these laws may be directed to the following regional offices:

NORTHERN REGION

Idaho Dept. of Water Resources
1920 Northwest Boulevard, #210
Coeur d'Alene, Idaho 83814

WESTERN REGION

Idaho Dept. of Water Resources
2735 Airport Way,
Statehouse Mail
Boise, Idaho 83705

SOUTHERN REGION

Idaho Dept. of Water Resources
222 Shoshone Street East
Twin Falls, Idaho 83301

EASTERN REGION

Idaho Dept. of Water Resources
150 Shoup Avenue, Suite 15
Idaho Falls, Idaho 83401

1. Water Appropriation. (Idaho Code title 42, chapter 2)

Any diversion and appropriation of water from the public waters of Idaho must be authorized by a water right permit.

2. The Stream Channel Alteration Act. (Idaho Code title 42, chapter 38)

The law requires that stream channels of the state and their environments be protected against alteration for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, and water quality. An alteration is defined as any activity which obstructs, diminishes, destroys, alters, modifies, relocates or changes the natural existing shape or direction of water flow of any stream channel within or below the mean high water mark. The law provides that any project or activity which will alter a stream channel cannot be undertaken without authorization from the Department of Water Resources in the form of a permit. The permit process and minimum standards are described in Rules and Regulations and Minimum Standards for Stream Channel Alterations. Rules and regulations are available through IDWR.

3. Safety of Dams. (Idaho Code title 42, chapter 17)

The Dam Safety Act includes mine tailings impoundment structures and water storage dams. Through this act it was the intent of the legislature "to provide for the regulation of construction, maintenance and operation of all dams, reservoirs and mine tailing impoundment structures . . . to the extent required for the protection of the public safety". A mine tailing impoundment is defined as "any artificial embankment which is or will be more than thirty (30) feet in height measured from the lowest elevation of the toe to the maximum crest elevation . . ." A water storage dam is defined as an artificial barrier which is or will be ten (10) feet or more in height or has or will have an impounding capacity of fifty (50) acre-feet or more.

The Department of Water Resources is authorized to review and approved plans and specifications for mine tailing impoundments and water storage dams in order to inspect such facilities during both construction and operation for integrity and safety. Rules and regulations for both mine tailings impoundment structures and safety of dams have been adopted and are available upon request from IDWR.

Inquiries concerning these laws may be directed to any of the regional offices as shown on the attached maps.