

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 141

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

1 RELATING TO MINES; AMENDING THE HEADING FOR CHAPTER 15, TITLE 47, IDAHO CODE;
2 AMENDING SECTION 47-1501, IDAHO CODE, TO PROVIDE THAT THE PURPOSE OF
3 SPECIFIED LAW SHALL ALSO APPLY TO UNDERGROUND MINES AND TO MAKE TECH-
4 NICAL CORRECTIONS; AMENDING SECTION 47-1502, IDAHO CODE, TO REVISE A
5 SHORT TITLE, TO REVISE PROVISIONS REGARDING APPLICABILITY, AND TO MAKE
6 TECHNICAL CORRECTIONS; AMENDING SECTION 47-1503, IDAHO CODE, TO REVISE
7 DEFINITIONS, TO DEFINE TERMS, AND TO MAKE TECHNICAL CORRECTIONS; AMEND-
8 ING SECTION 47-1505, IDAHO CODE, TO REVISE THE DUTIES AND POWERS OF THE
9 BOARD OF LAND COMMISSIONERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
10 SECTION 47-1506, IDAHO CODE, TO REVISE OPERATOR DUTIES; AMENDING SEC-
11 TION 47-1507, IDAHO CODE, TO REVISE REFERENCE TO MINING OPERATIONS RE-
12 GARDING RECLAMATION PLANS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
13 SECTION 47-1508, IDAHO CODE, TO REVISE REFERENCE TO MINING OPERATIONS
14 REGARDING AMENDED AND SUPPLEMENTAL PLANS, TO PROVIDE FOR REVIEW OF
15 RECLAMATION PLANS AND PERMANENT CLOSURE PLANS, TO PROVIDE FOR FEES, TO
16 PROVIDE THAT CERTAIN DETERMINATIONS SHALL BE CONSIDERED FINAL ORDERS,
17 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1509, IDAHO
18 CODE, TO REVISE REFERENCE TO MINING OPERATIONS REGARDING PROCEDURES IN
19 RECLAMATION, TO REVISE SPECIFIED RECLAMATION ACTIVITIES, AND TO MAKE
20 TECHNICAL CORRECTIONS; AMENDING SECTION 47-1510, IDAHO CODE, TO REVISE
21 REFERENCE TO MINING OPERATIONS REGARDING VEGETATION PLANTING AND TO
22 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1511, IDAHO CODE, TO
23 REVISE REFERENCE TO MINING OPERATIONS REGARDING RECLAMATION ACTIVI-
24 TIES AND TIME LIMITATIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING
25 SECTION 47-1512, IDAHO CODE, TO PROVIDE FOR FINANCIAL ASSURANCE AND
26 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1513, IDAHO CODE,
27 TO REVISE PROVISIONS REGARDING AN OPERATOR'S FAILURE TO COMPLY AND TO
28 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 47-1516, IDAHO CODE, TO
29 REVISE REFERENCE TO MINED LAND REGARDING THE DEPOSIT OF FORFEITURES
30 AND DAMAGES; AMENDING SECTION 47-1517, IDAHO CODE, TO REVISE REFERENCE
31 TO MINING OPERATIONS REGARDING COMPLIANCE WITH CERTAIN STATUTES AND
32 REGULATIONS; AND AMENDING SECTION 47-1518, IDAHO CODE, TO PROVIDE AN
33 EXEMPTION FROM RECLAMATION FOR CERTAIN SURFACE MINE OPERATORS, TO PRO-
34 VIDE FOR APPLICABILITY, AND TO MAKE A TECHNICAL CORRECTION.
35

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

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

39 CHAPTER 15

40 ~~SURFACE MINING~~ MINED LAND RECLAMATION

1 SECTION 2. That Section 47-1501, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 47-1501. PURPOSE OF CHAPTER. It is the purpose of this chapter to pro-
4 vide for the protection of the public health, safety and welfare, through
5 measures to reclaim the surface of all the lands within the state disturbed
6 by exploration and surface and underground mining operations and measures
7 to assure the proper closure of cyanidation facilities and thereby conserve
8 natural resources, aid in the protection of wildlife, domestic animals, and
9 aquatic resources, and reduce soil erosion.

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

12 47-1502. SHORT TITLE. This act ~~may~~ shall be known and may be cited as
13 "the "Idaho surface mining mined land reclamation act." The reclamation pro-
14 visions of this act shall not apply to ~~surface~~ mining operations regulated by
15 the Idaho dredge and placer mining protection act, nor shall such provisions
16 apply to any workings at an underground mine below the surface.

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

19 47-1503. DEFINITIONS. Wherever used or referred to in this chapter,
20 unless a different meaning clearly appears from the context:

21 (1) "Board" means the state board of land commissioners or such depart-
22 ment, commission, or agency as may lawfully succeed to the powers and duties
23 of such board.

24 (2) "Cyanidation" means the method of extracting target precious met-
25 als from ores by treatment with cyanide solution, which is the primary leach-
26 ing agent for the extraction.

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

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

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

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

41 (7) "~~Surface~~ Mining operations" means the activities performed on a
42 the surface of a surface or underground mine in the extraction of minerals
43 from the ground, including the excavating of pits, removal of minerals, dis-
44 posal of overburden, and the construction of haulage roads, exclusive of ex-
45 ploration operations, except that any exploration operations which, exclu-
46 sive of exploration roads, (a) result during a period of twelve (12) consecu-

1 tive months in more than five (5) contiguous acres of newly affected land, or
 2 (b) which, exclusive of exploration roads, result during a period of twelve
 3 (12) consecutive months in newly affected land consisting of more than ten
 4 (10) noncontiguous acres, if such affected land constitutes more than fif-
 5 teen percent (15%) of the total area of any circular tract ~~which that~~ in-
 6 cludes such affected land, shall be deemed to be a surface mining operation
 7 for the purposes of this chapter.

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

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

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

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

21 (11~~2~~) "Overburden" or "waste rock" means material extracted by an oper-
 22 ator ~~which that~~ is not a part of the material ultimately removed from a sur-
 23 face mine or underground mine and marketed by an operator, exclusive of min-
 24 eral stockpiles.

25 (12~~3~~) "Overburden disposal area" means land surface upon which overbur-
 26 den or waste rock is ~~piled~~ placed or planned to be ~~piled~~ placed.

27 (13~~4~~) "Exploration drill holes" means holes drilled from the surface to
 28 locate mineral bodies and to determine the mineability and merchantability
 29 thereof.

30 (14~~5~~) "Exploration roads" means roads constructed to locate mineral
 31 bodies and to determine the mineability and merchantability thereof.

32 (15~~6~~) "Exploration trenches" means trenches constructed to locate min-
 33 eral bodies and to determine the mineability and merchantability thereof.

34 (16~~7~~) "Peak" means a projecting point of overburden.

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

37 (17~~9~~) "Mine panel" means that portion of a mine designated by an opera-
 38 tor as a panel of a surface mine or the surface effects of an underground mine
 39 on the map submitted pursuant to section 47-1506, Idaho Code.

40 (18~~20~~) "Mineral stockpile" means minerals extracted during surface
 41 mining operations and retained at the surface mine for future rather than
 42 immediate use.

43 (19~~21~~) "Permanent closure plan" means a description of the procedures,
 44 methods, and schedule that will be implemented to meet the intent and pur-
 45 poses of this chapter in treating and disposing of cyanide-containing materi-
 46 als including spent ore, tailings, and process water and in controlling
 47 and monitoring discharges and potential discharges for a reasonable period
 48 of time based on site-specific conditions.

49 (20~~2~~) "Pit" means an excavation created by the extraction of minerals or
 50 overburden ~~during at a surface mining operations~~ mine.

1 (213) "Ridge" means a lengthened elevation of overburden.

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

4 (235) "Operator" means any person or persons, any partnership, limited
5 partnership, ~~or~~ corporation, or limited liability company, or any associ-
6 ation of persons, either natural or artificial, including, but not limited
7 to, every public or governmental agency engaged in surface mining operations
8 or exploration operations or in operating a cyanidation facility, whether
9 individually, jointly, or through subsidiaries, agents, employees, or con-
10 tractors, and shall mean every governmental agency owning or controlling the
11 use of any surface mine when the mineral extracted is to be used by or for the
12 benefit of such agency. It shall not include any such governmental agency
13 with respect to those surface mining or exploration operations as to which it
14 grants mineral leases or prospecting permits or similar contracts, but noth-
15 ing herein shall relieve the operator acting pursuant to a mineral lease,
16 prospecting permit or similar contract from the terms of this chapter.

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

19 (257) "Final order of the board" means a written notice of rejection,
20 the order of a hearing officer at the conclusion of a hearing, or any other
21 order of the board where additional administrative remedies are not avail-
22 able.

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

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

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

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

37 47-1505. DUTIES AND POWERS OF BOARD. In addition to the other duties
38 and powers of the board prescribed by law, the board is granted and shall be
39 entitled to exercise the following authority and powers and perform the fol-
40 lowing duties:

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

43 (2) To conduct and promote the coordination and acceleration of re-
44 search, studies, surveys, experiments, demonstrations and training in
45 carrying out the provisions of this chapter. In carrying out the activities
46 authorized by this section, the board may enter into contracts with and make
47 grants to institutions, agencies, organizations and individuals, and shall
48 collect and make available any information obtained therefrom.

1 (3) To adopt and promulgate reasonable rules respecting the adminis-
 2 tration of this chapter and such rules as may be necessary to carry out the
 3 intent and purposes of this chapter, provided that no rules shall be adopted
 4 ~~which that~~ require reclamation activities in addition to those set forth in
 5 this chapter. All such rules shall be adopted in accordance with and subject
 6 to the provisions of chapter 52, title 67, Idaho Code.

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

12 (5) To reclaim affected land with respect to which ~~a bond~~ financial as-
 13 urance has been forfeited, and, in the board's discretion, with the permis-
 14 sion of the landowner, to reclaim such other land ~~which that~~ becomes affected
 15 land.

16 (6) To complete closure activities with respect to a cyanidation fa-
 17 cility for which a permanent closure ~~bond~~ financial assurance has been for-
 18 feited.

19 (7) (a) Upon receipt of a ~~proposed~~ reclamation plan or permanent clo-
 20 sure plan or amended or supplemental plan required by this chapter, the
 21 director shall notify the cities and counties in which the surface min-
 22 ing operation or cyanidation facility is proposed. The notice shall in-
 23 clude the name and address of the operator and shall describe the proce-
 24 dure and the schedule by which the plan may be approved or denied. This
 25 notification requirement shall not apply to exploration operations.

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

32 (c) No city or county shall enact or adopt any ordinance, rule or reso-
 33 lution to regulate exploration or surface mining operations or a perma-
 34 nent closure plan in this state ~~which that~~ conflicts with any provision
 35 of this chapter or the rules promulgated thereunder. This subpart shall
 36 not affect the planning and zoning authorities available to cities and
 37 counties pursuant to chapter 65, title 67, Idaho Code.

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

40 47-1506. OPERATOR -- DUTIES PRIOR TO OPERATION -- SUBMISSION OF MAPS
 41 AND PLANS. (a) Any operator desiring to conduct surface mining operations
 42 within the state of Idaho for the purpose of immediate or ultimate sale of the
 43 minerals in either the natural or processed state shall submit to the board
 44 prior to commencing such surface mining operations a reclamation plan that
 45 contains the following:

46 (1) A map of the mine panel on which said operator desires to conduct
 47 surface mining operations, which sets forth with respect to said panel
 48 the following:

1 (i) The location of existing roads and anticipated access and
2 main haulage roads planned to be constructed in conducting the
3 ~~surface~~ mining operations.

4 (ii) The approximate boundaries of the lands to be utilized in the
5 process of ~~surface~~ mining operations.

6 (iii) The approximate location and, if known, the names of all
7 streams, creeks, or bodies of water within the area where ~~surface~~
8 mining operations shall take place.

9 (iv) The name and address of the person to whom notices, orders,
10 and other information required to be given to the operator pur-
11 suant to this chapter may be sent.

12 (v) The drainage adjacent to the area where the surface is being
13 utilized by ~~surface~~ mining operations.

14 (vi) The approximate boundaries of the lands that will become af-
15 fected lands as a result of ~~surface~~ mining operations during the
16 year immediately following the date that a reclamation plan is ap-
17 proved as to said panel, together with the number of acres included
18 within said boundaries.

19 (vii) A description of foreseeable, ~~site-specific nonpoint~~
20 ~~sources of water quality impacts upon adjacent surface waters, and~~
21 ~~the best management practices that will be used to control such~~
22 ~~nonpoint source impacts from mining operations and proposed water~~
23 management activities to comply with water quality requirements.

24 (viii) A description of foreseeable, ~~site-specific impacts from~~
25 ~~acid rock drainage and the best management practices that will be~~
26 ~~used to mitigate the impacts, if any, from such acid rock drainage~~
27 post-closure activities.

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

30 (3) A description of the action which said operator intends to take to
31 comply with the provisions of this chapter as to the ~~surface~~ mining op-
32 erations conducted on such mine panel.

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

38 (i) Maps showing the location of existing roads and antici-
39 pated access and main haulage roads planned to be constructed for
40 ~~surface~~ mining operations.

41 (ii) The boundaries and acreage of the lands to be utilized in the
42 process of ~~surface~~ mining operations.

43 (iii) Maps showing the planned location of pits, mineral stock-
44 piles, overburden piles and tailings ponds for the ~~surface~~ mining
45 operations.

46 (iv) The location and, if known, the names of all streams, creeks,
47 or bodies of water within the area where ~~surface~~ mining operations
48 shall take place.

49 (v) The drainage adjacent to the area where the surface is being
50 utilized by ~~surface~~ mining operations.

1 (vi) The approximate boundaries and acreage of the lands that will
2 become affected during the first year of construction of ~~surface~~
3 mining operations.

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

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

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

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

22 (1) The name and address of the operator;

23 (2) The location of the operation and the starting date and estimated
24 completion date;

25 (3) The anticipated size of the operation, and the general method of op-
26 eration.

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

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

32 (1) The name and address of the operator;

33 (2) The location of the operation;

34 (3) The objectives, methods and procedures the operator will use to at-
35 tain permanent closure;

36 (4) An estimate of the cost of attaining permanent closure as well as an
37 estimate of the costs to achieve critical phases of the closure plan;

38 (5) Any other information specified in the rules adopted to carry out
39 the intent and purposes of this chapter; and

40 (6) An operator may incorporate a description of post-closure activi-
41 ties in a permanent closure plan in lieu of inclusion in a reclamation
42 plan.

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

48 (h) The board shall coordinate its review of activities in ~~the~~ a recla-
49 mation plan, operating plan, and permanent closure plan under statutory
50 responsibility of the department of environmental quality with that depart-

1 ment, but that coordination shall not extend the time limit in which the
2 board must act on a plan submitted.

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

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

7 47-1507. PLAN -- APPROVAL OR REJECTION BY BOARD -- HEARING. (a) Upon
8 determination by the board that a reclamation or permanent closure plan or
9 any amended plan submitted by an operator meets the requirements of this
10 chapter, the board shall deliver to the operator, in writing, a notice of ap-
11 proval of such plan, and thereafter said plan shall govern and determine the
12 nature and extent of the obligations of the operator for compliance with this
13 chapter, with respect to the mine panel or cyanidation facility for which the
14 plan was submitted.

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

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

41 (d) For the purpose of determining whether a proposed plan or amended or
42 supplemental plan complies with the requirements of this chapter, the board
43 may, in its discretion, call for a public hearing. The hearing shall be held
44 under such rules as promulgated by the board. Any interested person may ap-
45 pear at the hearing and give testimony. At the discretion of the board, the
46 director may conduct the hearing and transmit a summary thereof to the board.
47 Any hearing held shall not extend the period of time limit in which the board
48 must act on a plan submitted.

1 SECTION 8. That Section 47-1508, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 47-1508. AMENDED PLAN -- SUPPLEMENTAL PLAN -- SUBMISSION. (a) In the
4 event that a material change in circumstances arises ~~which~~ that the opera-
5 tor, or the board, believes requires a change in an approved plan, including
6 any amended plan, then the operator shall submit to the board a supplemen-
7 tal plan setting forth the proposed changes and the board shall likewise set
8 forth its proposed changes and ~~stating~~ state the reasons therefor. Upon de-
9 termination by the board that a supplemental plan or any amended supplemen-
10 tal plan submitted by the operator meets the requirements of this chapter,
11 it shall deliver to the operator, in writing, a notice of approval of said
12 supplemental plan, and thereafter said supplemental plan shall govern and
13 determine the nature and extent of the obligations of the operator for com-
14 pliance with respect to the mine panel or cyanidation facility for which the
15 plan was submitted.

16 (b) If the board determines that a supplemental plan fails to fulfill
17 the requirements of this chapter, it shall deliver to the operator, in writ-
18 ing, a notice of rejection of the supplemental plan and shall set forth in
19 said notice of rejection the manner in which said plan fails to fulfill said
20 requirements and shall stipulate the corrective requirements necessary to
21 comply with said sections. Upon receipt of said notice of rejection, the op-
22 erator may submit amended supplemental plans. Upon further determination
23 by the board that an amended supplemental plan does not fulfill the require-
24 ments of said sections, it shall deliver to the operator, in writing, a no-
25 tice of rejection of amended supplemental plan, and shall set forth in said
26 notice of rejection the manner in which such amended supplemental plan fails
27 to fulfill said requirements, and shall stipulate the requirements neces-
28 sary to comply with said sections.

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

46 (d) If an operator determines that unforeseen events or unexpected
47 conditions require immediate changes in or additions to an approved recla-
48 mation or permanent closure plan, the operator may continue operations in
49 accordance with the procedures dictated by the changed conditions, pending

1 submission and approval of a supplemental plan, even though such operations
2 do not comply with the approved plan, provided, however, that nothing herein
3 stated shall be construed to excuse the operator from complying with the
4 reclamation requirements of sections 47-1509 and 47-1510, Idaho Code, ~~of~~
5 ~~this chapter~~ or from the applicable closure requirements of a permit is-
6 sued under section 39-118A, Idaho Code. Notice of such unforeseen events
7 or unexpected conditions shall be given to the board within ten (10) days
8 after discovery thereof, and a proposed supplemental plan shall be submitted
9 within thirty (30) days after discovery thereof.

10 (e) At least once every five (5) years, the board shall review recla-
11 mation plans and revise if necessary to meet the requirements of sections
12 47-1506, 47-1509, 47-1510, and 47-1511, Idaho Code, when there is a mate-
13 rial change in the reclamation plan. As part of this review, the board shall
14 revise the amount, terms, and conditions of any financial assurance when
15 there is a material change in the reclamation plan or a material change in the
16 estimated reasonable costs of reclamation determined pursuant to section
17 47-1512, Idaho Code. Any such revision shall apply only to the affected
18 lands covered by the material change.

19 (f) For a permanent closure plan approved by the board after July 1,
20 2005, the board shall periodically review, and revise if necessary to meet
21 the requirements of this chapter, the amount, terms, and conditions of any
22 financial assurance when there is a material change in the permanent closure
23 plan or a material change in the estimated reasonable costs of permanent clo-
24 sure determined pursuant to section 47-1512, Idaho Code. The board may re-
25 quire a fee sufficient to employ a qualified independent party, acceptable
26 to the operator and the board, to verify any revised estimate of the reason-
27 able costs of permanent closure.

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

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

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

34 47-1509. PROCEDURES IN RECLAMATION. (a) Except as otherwise provided
35 in this act, every operator who conducts exploration or ~~surface~~ mining op-
36 erations ~~which~~ that disturb two (2) or more acres within the state of Idaho
37 shall perform the following reclamation activities:

38 (1) Ridges of overburden shall be leveled in such manner as to have a
39 minimum width of ten (10) feet at the top.

40 (2) Peaks of overburden shall be leveled in such a manner as to have a
41 minimum width of fifteen (15) feet at the top.

42 (3) Overburden piles shall be reasonably prepared to control erosion.

43 ~~(4) Where water run-off from affected lands results in stream or lake~~
44 ~~siltation in excess of that which normally results from run-off, the~~
45 ~~operator shall prepare affected lands and adjacent premises under the~~
46 ~~control of the operator~~ Manage water as necessary to meet the require-
47 ments authorized under chapter 1, title 39, Idaho Code.

48 (5) Roads ~~which~~ that are abandoned shall be cross-ditched insofar as
49 necessary to avoid erosion gullies.

1 (6) Exploration drill holes shall be plugged or otherwise left so as to
2 eliminate hazards to humans or animals.

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

7 (8) The operator shall conduct revegetation activities on the mined ar-
8 eas, overburden piles, and abandoned roads in accordance with the pro-
9 visions of this act.

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

12 (10) Complete all other reclamation required in the approved reclama-
13 tion plan.

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

18 (c) Every operator who conducts exploration or ~~surface~~ mining opera-
19 tions ~~which that~~ disturb less than two (2) acres within the state of Idaho
20 shall, wherever possible, contour the lands so disturbed to approximate the
21 previous contour of the lands.

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

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

26 47-1510. VEGETATION PLANTING. (a) Except as otherwise provided in
27 this act, an operator shall plant, on affected lands, vegetation species
28 ~~which that~~ can be expected to result in vegetation comparable to the vegeta-
29 tion ~~which that~~ was growing on the area occupied by the affected lands prior
30 to the exploration and ~~surface~~ mining operations.

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

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

37 (1) On any mined area or overburden pile proposed to be used in the min-
38 ing operations for haulage roads, ~~so~~ as long as such roads are not aban-
39 doned.

40 (2) On any mined area or overburden pile where lakes are formed by rain-
41 fall or drainage ~~run-off~~ runoff from the adjoining lands.

42 (3) On any mineral stockpile.

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

45 (5) On any road ~~which that~~ the operator intends to use in his mining op-
46 erations, ~~so~~ as long as said road has not been abandoned.

47 SECTION 11. That Section 47-1511, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 47-1511. RECLAMATION ACTIVITIES -- TIME LIMITATIONS. (a) All reclama-
2 tion activities required to be conducted under this act shall be performed
3 in a good and workmanlike manner, with all reasonable diligence, and as to a
4 given exploration drill hole, road or trench, within one (1) year after aban-
5 donment thereof.

6 (b) The reclamation activity as to a given mine panel shall be commenced
7 within one (1) year after ~~surface~~ mining operations have permanently ceased
8 as to such mine panel, provided, however, that in the event that during the
9 course of ~~surface~~ mining operations on a given mine panel, the operator
10 permanently ceases disposing of overburden on a given overburden pile, or
11 permanently ceases removing minerals from a given pit, or permanently ceases
12 using a given road or other affected land, then the reclamation activities
13 to be conducted hereunder as to such pit, road, overburden pile, or other af-
14 fected land, shall be commenced within one (1) year after such termination,
15 despite the fact that all operations as to the mine panel, which includes
16 such pit, road, overburden pile, or other affected land, have not perma-
17 nently ceased. It shall be presumed that the operator has permanently ceased
18 ~~surface~~ mining operations as to a given affected land if no substantial
19 amount of overburden has been placed on the overburden pile in question or if
20 no minerals have been removed from the pit in question, as the case may be,
21 for a period of three (3) years.

22 This presumption may be rebutted by evidencing, in writing, to the board
23 what ~~surface~~ mining operations the operator has planned on the pit, road,
24 overburden pile, or other affected land not used within a three (3) year pe-
25 riod. Should the board determine that the operator, in good faith, intends
26 to continue the ~~surface~~ mining operation within a reasonable period of time,
27 it shall, in writing, so notify the operator. Should the board determine
28 that the operation will not be continued within a reasonable period of time,
29 the board shall proceed as though the ~~surface~~ mining operation has been aban-
30 doned.

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

33 47-1512. ~~PERFORMANCE BOND FINANCIAL ASSURANCE~~ -- REQUISITES. (a)
34 Prior to conducting any ~~surface~~ mining operations on a mine panel covered by
35 an approved reclamation plan or operating a cyanidation facility covered by
36 an approved permanent closure plan, an operator shall submit to the board a
37 ~~bond~~ financial assurance meeting the requirements of this section.

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

47 (2) ~~The penalty of the initial permanent closure bond financial as-~~
48 ~~surance~~ filed prior to operating a cyanidation facility shall be in an
49 amount determined by the board to be the estimated reasonable costs to

1 complete the activities specified in the permanent closure plan re-
2 quired in this chapter, in the event of the failure of an operator to
3 complete those activities, ~~plus ten percent (10%) of such costs.~~ In
4 setting ~~the bond~~ such amount, the board shall avoid duplication with
5 ~~bonds and sureties~~ financial assurance deposited with other governmen-
6 tal agencies.

7 (3) The determination of the ~~bond~~ financial assurance amount shall con-
8 stitute a final ~~decision order~~ subject to judicial review as set forth
9 in subsection (a) of section 47-1514, Idaho Code. In lieu of any ~~bond~~
10 financial assurance required hereunder, the operator may deposit cash
11 and governmental securities with the board, in an amount equal to that
12 of the required ~~bond~~ financial assurance, on the conditions as pre-
13 scribed in this section.

14 (b) Prior to the time that lands designated to become affected lands
15 on a mine panel, in addition to those designated pursuant to section
16 47-1506(a)(1)(vi), Idaho Code, become affected land, the operator shall
17 submit to the board a ~~bond~~ financial assurance meeting the requirements of
18 section 47-1512(c), Idaho Code, ~~and the penalty of such bond which~~ shall be
19 in the amount necessary to ~~insure~~ ensure the performance of the duties of the
20 operator under this chapter as to such affected lands actually proposed to be
21 mined within the next calendar year. If additional acreage is subsequently
22 proposed to be mined by an operator, ~~the penalty of such bond~~ financial as-
23 urance shall be in an amount determined by the board to be the estimated
24 reasonable costs of reclamation required by this chapter, in the event of
25 failure to reclaim by an operator, of affected lands proposed to be mined
26 during the next calendar year ~~plus ten percent (10%) of such costs.~~

27 (c) ~~Except as provided in this subsection, no bond~~ For mining opera-
28 tions with affected land greater than five (5) acres, the financial assur-
29 ance amount shall be based on the estimated reasonable costs of completing
30 reclamation required in this chapter using standard estimating techniques,
31 including indirect costs, developed by the board. For all other mining opera-
32 tions, the financial assurance for reclamation submitted pursuant to this
33 chapter shall not exceed fifteen thousand dollars (\$15,000) for any given
34 acre of such affected land. The board may require a bond financial assur-
35 ance in excess of fifteen thousand dollars (\$15,000) for any given acre of
36 affected land only when the following conditions have been met:

37 (1) The board has determined that such ~~bond~~ financial assurance is nec-
38 essary to meet the requirements of sections 47-1506, 47-1509, 47-1510
39 and 47-1511, Idaho Code.

40 (2) The board has delivered to the operator, in writing, a notice set-
41 ting forth the reasons it believes such ~~bond~~ financial assurance is nec-
42 essary.

43 (3) The board has conducted a hearing where the operator is allowed to
44 give testimony to the board concerning the amount of the proposed ~~bond~~
45 financial assurance. The hearing shall be held under such rules as pro-
46 mulgated by the board. This requirement for a hearing may be waived, in
47 writing, by the operator. Any hearing held shall, at the discretion of
48 the director, extend the time, up to thirty (30) days, in which the board
49 must act on a plan submitted.

1 ~~Except as provided in this subsection, no bond~~ For a cyanidation
 2 facility with affected land greater than five (5) acres, the financial as-
 3 surance amount shall be based on the estimated reasonable costs to complete
 4 reclamation required under this chapter using standard estimating tech-
 5 niques, including indirect costs, developed by the board. For all other
 6 cyanidation facilities, the financial assurance submitted for permanent
 7 closure of a cyanidation facility pursuant to this chapter shall not exceed
 8 five million dollars (\$5,000,000). The board may require ~~a bond~~ financial
 9 assurance in excess of five million dollars (\$5,000,000) for a cyanidation
 10 facility only when the following conditions have been met:

11 (1) The board has determined that such ~~bond~~ financial assurance is nec-
 12 essary to meet the requirements of this chapter.

13 (2) The board has delivered to the operator, in writing, a notice set-
 14 ting forth the reasons it believes such ~~bond~~ financial assurance is nec-
 15 essary.

16 (3) The board has conducted a hearing where the operator is allowed to
 17 give testimony to the board concerning the amount of the proposed ~~bond~~
 18 financial assurance. The hearing shall be held under such rules as pro-
 19 mulgated by the board. This requirement for a hearing may be waived, in
 20 writing, by the operator. Any hearing held shall, at the discretion of
 21 the director, extend the time, up to sixty (60) days, in which the board
 22 must act on the permanent closure plan submitted.

23 (e) Any ~~bond~~ financial assurance required under this chapter to be
 24 filed and maintained with the board shall be in such form as the board pre-
 25 scribes, payable to the state of Idaho, conditioned that the operator shall
 26 faithfully perform all requirements of this chapter and comply with all
 27 rules of the board in effect as of the date of approval of the plan in accor-
 28 dance with the provisions of this chapter. ~~An operator may at any time file~~
 29 ~~a single bond in lieu of separate bonds filed or to be filed pursuant to this~~
 30 ~~chapter, provided that the penalty of such single bond shall be equal to the~~
 31 ~~total of the penalties of the separate bonds being combined into a single~~
 32 ~~bond.~~ Further, any ~~bond~~ financial assurance provided to another governmen-
 33 tal agency that also meets the requirements in this section shall be deemed
 34 to be sufficient ~~surety~~ for the purposes of this chapter.

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

44 (g) If the license to do business in this state of any surety, upon a
 45 bond filed with the board pursuant to this chapter, shall be suspended or re-
 46 voked, the operator, within thirty (30) days after receiving notice thereof
 47 from the board, shall substitute for such surety ~~a good and sufficient corpo-~~
 48 ~~rate surety licensed to do business in this state or other surety acceptable~~
 49 ~~to the board~~ alternative financial assurance in accordance with this sec-
 50 tion. Upon failure of the operator to make substitution of ~~surety~~ financial

1 assurance, the board shall have the right to issue a cease and desist order
2 and seek injunctive relief to stop the operator from conducting operations
3 covered by such ~~bond~~ financial assurance until such substitution has been
4 made.

5 (h) When an operator shall have completed all or a portion of reclama-
6 tion requirements, or all or a portion of any post-closure activity, un-
7 der the provisions of this chapter as to any portion of affected land or any
8 post-closure activity, he ~~shall~~ may notify the board. Within thirty (30)
9 days after the receipt of such notice, the board shall notify the operator as
10 to whether or not the reclamation or post-closure activity performed meets
11 the requirements of the reclamation plan pertaining to the land in question.

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

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

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

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

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

47 (j) An operator may withdraw any land previously designated as affected
48 land within a mine panel, provided that it is not already affected land, and
49 in such event, he shall notify the board, and the amount of the bond in effect
50 as to the lands in that mine panel shall be reduced by an amount designated

1 by the board as the amount which would have been necessary to reclaim such
2 lands.

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

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

9 (1) The trust fund is managed by a third-party trustee;

10 (2) The trust fund names the state of Idaho as beneficiary; and

11 (3) The trust is initially funded in an amount at least equal to:

12 (i) The financial assurance amount as estimated by this section;

13 (ii) A specified schedule of payments into the fund; or

14 (iii) A pro-rata amount if used with another financial assurance
15 mechanism.

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

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

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

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

28 (1) The board has determined that such longer post-closure period
29 is necessary to meet the requirements of sections 47-1506, 47-1509,
30 47-1510, and 47-1511, Idaho Code;

31 (2) The board has delivered to the operator, in writing, a notice set-
32 ting forth the reasons it believes a longer post-closure period is nec-
33 essary;

34 (3) The board has conducted a hearing where the operator is allowed to
35 give testimony concerning the length of the post-closure period. The
36 hearing shall be held under such rules as promulgated by the board. The
37 requirement for a hearing may be waived by the operator; and

38 (4) Any decision by the board under this subsection shall be considered
39 a final order pursuant to section 47-1514, Idaho Code.

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

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

47 47-1513. OPERATOR'S FAILURE TO COMPLY -- FORFEITURE OF ~~BOND~~ FINANCIAL
48 ASSURANCE -- PENALTIES -- RECLAMATION FUND -- CYANIDATION CLOSURE FUND. (a)
49 Whenever the board determines that an operator has not complied with the pro-

1 visions of this chapter, the board may notify the operator of such noncom-
2 pliance, and may, by private conference, conciliation, and persuasion, en-
3 deavor to remedy such violation. In the event of a violation referred to
4 in subsections (d) and (e) of this section, the board may proceed without
5 an administrative action, hearing or decision to exercise the remedies set
6 forth in said subsections. Additionally, no administrative action, hear-
7 ing or decision shall be required from the Idaho board of environmental qual-
8 ity prior to the board proceeding under subsections (d) and (e) of this sec-
9 tion. In the event of the failure of any conference, conciliation and per-
10 suasion to remedy any alleged violation, the board may cause to have issued
11 and served upon the operator alleged to be committing such violation, a for-
12 mal complaint ~~which~~ that shall specify the provisions of this chapter ~~which~~
13 that the operator allegedly is violating, and a statement of the manner in
14 and the extent to which said operator is alleged to be violating the provi-
15 sions of this chapter. Such complaint may be served by certified mail, and
16 a return receipt signed by the operator, an officer of a corporate operator,
17 or the designated agent of the operator shall constitute service. The op-
18 erator shall answer the complaint and request a hearing before a designated
19 hearing officer within thirty (30) days from receipt of the complaint if mat-
20 ters asserted in the complaint are disputed. If the operator fails to answer
21 the complaint and request a hearing, the matters asserted in the complaint
22 shall be deemed admitted by the operator, and the board may proceed to can-
23 cel the reclamation or permanent closure plan and forfeit the ~~bond~~ financial
24 assurance in the amount necessary to reclaim affected lands or complete the
25 permanent closure activities. Upon request for a hearing by an operator,
26 the board shall schedule a hearing before a hearing officer appointed by the
27 board at a time not less than thirty (30) days after the date the operator
28 requests a hearing. The board shall issue subpoenas at the request of the
29 director of the department of lands and at the request of the charged op-
30 erator, and the matter shall be otherwise handled and conducted in accord-
31 ance with chapter 52, title 67, Idaho Code. The hearing officer shall, pur-
32 suant to said hearing, enter an order in accordance with chapter 52, title
33 67, Idaho Code, which, if adverse to the operator, shall designate a time pe-
34 riod within which corrective action should be taken. The time period desig-
35 nated shall be long enough to allow the operator, in the exercise of reason-
36 able diligence, to rectify any failure to comply designated in said order.
37 In the event that the operator takes such action as is necessary to comply
38 with the order within the time period designated in said order, no further
39 action shall be taken by the board to compel performance under the chapter.

40 (b) Upon request of the board, the attorney general shall institute
41 proceedings to have the ~~bond~~ financial assurance of an operator forfeited
42 for the violation by the operator of an order entered pursuant to this sec-
43 tion.

44 (c) The forfeiture of such ~~bond~~ financial assurance shall fully satisfy
45 all obligations of the operator to reclaim the affected land or complete per-
46 manent closure activities under the provisions of this chapter. If the vi-
47 olation involves an operator that has not furnished a ~~bond~~ financial assur-
48 ance required by this chapter, or an operator that is not required to furnish
49 a ~~bond~~ financial assurance pursuant to this chapter, or an operator who vio-
50 lates this chapter by performing an act not included in the original approved

1 reclamation plan or the original approved permanent closure plan, and such
2 departure from the plan is not subsequently approved, such operator shall
3 be subject to a civil penalty for his failure to comply with such order in
4 the amount determined by the board to be the anticipated cost of reasonable
5 reclamation of affected lands or permanent closure of the cyanidation facil-
6 ity. Nothing in this subsection shall relieve the operator of any obliga-
7 tion, including the obligation to complete closure requirements, pursuant
8 to a permit issued by the department of environmental quality under section
9 39-118A, Idaho Code, or limit that department's authority to require compli-
10 ance with such permit requirements.

11 (d) Notwithstanding any other provisions of this chapter, the board may
12 commence an action without ~~bond~~ financial assurance or undertaking, in the
13 name of the state of Idaho, to enjoin any operator who is conducting opera-
14 tions without an approved plan required by section 47-1506, Idaho Code, or
15 without the ~~bond~~ financial assurance required by this chapter. The court, or
16 a judge thereof at chambers, if satisfied from the complaint or by affidavits
17 that such acts have been or are being committed, shall issue a temporary re-
18 straining order without notice or bond, enjoining the defendant, his agents,
19 and employees from conducting such operations without said plan or bond.
20 Upon a showing of good cause therefor, the temporary restraining order may
21 require the defendant to perform reclamation of the mined area in conformity
22 with sections 47-1509 and 47-1510, Idaho Code, or to complete permanent
23 closure activities, pending final disposition of the action. The action
24 shall then proceed as in other cases for injunctions. If it is established
25 at trial that the defendant has operated without an approved plan or ~~bond~~
26 financial assurance, the court shall enter, in addition to any other order,
27 a decree enjoining the defendant, his agents and employees from thereafter
28 conducting such activities or similar actions in violation of this chapter.
29 The board may, in conjunction with its injunctive procedures, proceed in
30 the same or in a separate action to recover from an operator who is conduct-
31 ing ~~surface~~ mining or exploration operations or operating a cyanidation
32 facility without the required plan or ~~bond~~ financial assurance, the cost
33 of performing the reclamation activities required by sections 47-1509 and
34 47-1510, Idaho Code, or the cost of permanent closure activities from any
35 such operator who has not ~~filed a bond~~ provided financial assurance to cover
36 the cost of the required activities.

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

45 (f) In addition to the procedures set forth in subsections (a), (d) and
46 (e) of this section, and in addition to the civil penalty provided in subsec-
47 tion (c) of this section, any operator who violates any of the provisions of
48 this chapter or rules adopted pursuant thereto, or who fails to perform the
49 duties imposed by these provisions, or who violates any determination or or-
50 der promulgated pursuant to the provisions of this chapter, shall be liable

1 to a civil penalty of not less than five hundred dollars (\$500) nor more than
2 two thousand five hundred dollars (\$2,500) for each day during which such vi-
3 olation continues, and in addition may be enjoined from continuing such vio-
4 lation. Such penalties shall be recoverable in an action brought in the name
5 of the state of Idaho by the attorney general in the district court for the
6 county where the violation, or some part thereof, occurs, or in the district
7 court for the county wherein the defendant resides.

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

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

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

25 (h) Reclamation plans approved by the board as of ~~January 1, 1997~~ July
26 1, 2019, shall be deemed to be in full compliance with the requirements of
27 this chapter. ~~However, the board may periodically review, and revise if~~
28 ~~necessary to meet the requirements of sections 47-1506, 47-1509, 47-1510~~
29 ~~and 47-1511, Idaho Code, the amount, terms and conditions of any bond when~~
30 ~~there is a material change in the reclamation plan or a material change in the~~
31 ~~estimated reasonable costs of reclamation determined pursuant to section~~
32 ~~47-1512, Idaho Code. Any revision to the amount, terms and conditions of a~~
33 ~~bond due to a material change in the reclamation plan shall apply only to the~~
34 ~~affected lands covered by the material change in the reclamation plan.~~

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

45 ~~(j) For a permanent closure plan approved by the board after July 1,~~
46 ~~2005, the board shall periodically review, and revise if necessary to meet~~
47 ~~the requirements of this chapter, the amount, terms and conditions of any~~
48 ~~bond when there is a material change in the permanent closure plan or a ma-~~
49 ~~terial change in the estimated reasonable costs of permanent closure deter-~~
50 ~~mined pursuant to section 47-1512, Idaho Code. The board may require a fee~~

1 ~~sufficient to employ a qualified independent party, acceptable to the oper-~~
2 ~~ator and the board, to verify any revised estimate of the reasonable costs of~~
3 ~~permanent closure.~~

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

6 47-1516. DEPOSIT OF FORFEITURES AND DAMAGES. All forfeitures and
7 civil damages collected under the provisions of this act shall be deposited
8 with the state treasurer in a special fund to be used by the board for ~~surface~~
9 mined land reclamation purposes.

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

12 47-1517. CONDUCT OF ACTIVITIES. (a) An operator shall conduct all ex-
13 ploration and mining operations in accordance with all applicable statutes
14 and regulations pertaining to water use and mining safety applicable to ex-
15 ploration and ~~surface~~ mining operations.

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

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

22 47-1518. EFFECTIVE DATE -- APPLICATION OF CHAPTER. (a) The reclama-
23 tion provisions of this chapter shall be in full force and effect on and af-
24 ter May 31, 1971. An surface mine operator shall not be required to perform
25 the reclamation activities referred to in this chapter as to any surface min-
26 ing operations performed prior to May 31, 1972, and, further, shall not be
27 required to perform such reclamation activities as to any pit or overburden
28 pile as it exists prior to May 31, 1972.

29 (b) The cyanidation provisions of this chapter shall be in full force
30 and effect on and after July 1, 2005. The board shall promulgate temporary
31 rules by August 1, 2005, to implement the provisions of this act. A cyanida-
32 tion facility with an existing permit approved by the department of environ-
33 mental quality under section 39-118A, Idaho Code, as of July 1, 2005, shall
34 be deemed to be in full compliance with the requirements of this chapter. If
35 there is a material modification or a material expansion of a cyanidation
36 facility after July 1, 2005, the provisions of this chapter shall apply to
37 the modification or expansion. Provided however, that reclamation or clo-
38 sure-related activities at a facility with an existing cyanidation permit
39 that did not actively add cyanide after January 1, 2005, shall not be consid-
40 ered to be material modifications or a material expansion of the facility.

41 (c) An underground mine operator shall not be subject to this chapter
42 for affected land disturbed by underground mine operations prior to July 1,
43 2019. If there is a significant change to affected land at an underground
44 mining operation after July 1, 2019, the provisions of this chapter shall ap-
45 ply to the significant change.

1 (d) The financial assurance and post-closure provisions of this chap-
2 ter amended in 2019 shall be in force and effect on or after July 1, 2019.
3 Provided that the financial assurance and post-closure provisions of this
4 chapter amended in 2019 shall not apply to:

5 (1) Mining operations currently permitted or authorized to commence
6 operations prior to July 1, 2019; or

7 (2) Any mining operation that has permanently ceased operations prior
8 to July 1, 2019.

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

15 (f) The board shall promulgate temporary rules by August 1, 2019, to im-
16 plement the 2019 amendments to this chapter.