

Dear Senators PEARCE, Bair, Werk, and
Representatives STEVENSON, Shepherd, Pence:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Department of Lands:

IDAPA 20.03.15 - Rules Governing the Issuance of Geothermal Leases - Fee Rule (Docket No.
20-0315-1102);

IDAPA 20.07.02 - Rules Governing Oil & Gas Conservation in the State of Idaho (Docket
No. 20-0702-1102).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/28/2011. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/25/2011.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address or FAX
number indicated on the memorandum enclosed.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Resources & Environment Committee and the House Resources & Conservation Committee
FROM: Principal Legislative Research Analyst - Katharine Gerrity
DATE: October 11, 2011
SUBJECT: Department of Lands

IDAPA 20.03.15 - Rules Governing the Issuance of Geothermal Leases - Fee Rule (Docket No. 20-0315-1102)

IDAPA 20.07.02 - Rules Governing Oil & Gas Conservation in the State of Idaho (Docket No. 20-0702-1102)

1. IDAPA 20.03.15 - Rules Governing the Issuance of Geothermal Leases - Fee Rule

The Department of Lands submits notice of a proposed rule, including a fee portion, at IDAPA 20.03.15 - Rules Governing the Issuance of Geothermal Leases. According to the Department, the following changes are being proposed:

- Formatting changes to conform with Chapter 52, Title 67, Idaho Code;
- Changes to definitions for the purpose of consistency and clarity;
- Most leases would be initially offered at auction instead of on a first-come basis;
- Lease term is extended up to 49 years in conformance with Section 47-1601, Idaho Code and Section 58-307, Idaho Code;
- Timely exploration and development requirements are reorganized for clarity;
- Geothermal rents and royalties would be determined through bidding or set by the board according to market rates in conformance with Section 47-1605, Idaho Code;
- The size of a lease is not restricted and will be determined by the Land Board in conformance with Section 47-1604, Idaho Code;
- Reinjection of surplus geothermal water is required to recharge the geothermal aquifer;

- The confidentiality of well logs is limited to one year in conformance with Section 42-4010(b), Idaho Code;
- Bond amounts are to be determined based on the costs of reclamation in conformance with Section 47-1608, Idaho Code;
- Application fees are increased to the amount needed to cover administrative costs. Fees are raised from \$25.00 to \$250. Assignments fees are raised from \$20.00 to \$150.

Negotiated rulemaking was conducted. According to the Department, participation was mostly from industry representatives, but a nongovernmental organization and some state legislators also attended. The rule appears to be authorized pursuant to Sections 58-104, 58-105 and 47-1603, Idaho Code.

2. IDAPA 20.07.02 - Rules Governing Oil & Gas Conservation in the State of Idaho

The Department of Lands submits notice of proposed rule at IDAPA 20.07.02 - Rules Governing Oil & Gas Conservation in the State of Idaho. According to the Department, the following changes are proposed:

- Formatting changes to conform with Chapter 52, Title 67, Idaho Code;
- Changes to definitions for the purpose of consistency and clarity;
- Well drilling permit requirements are expanded to ensure that the Department has the information needed to properly review them;
- A public comment period on applications is added;
- Application, operating and reporting requirements for well treatments, including hydraulic fracturing, are added;
- Bond amounts are increased and additional bonding requirements are added to decrease the potential well plugging liabilities present in other states;
- Basic surface owner protections are added, and geophysical exploration requirements are expanded, to reduce conflicts between surface and mineral owners and thereby enhance orderly development of oil and gas resources;
- Well drilling and plugging rules are modified to better prevent waste and protect fresh waters;
- Well completion and well log reporting is clarified to improve the flow of information and stimulate additional exploration;
- Active and inactive wells are defined to reduce the potential liability of abandoned wells;
- The periodic testing of well integrity is added to prevent waste and protect fresh waters;
- Class II injection wells are no longer permitted under this rule as the Idaho Department of Water Resources currently prohibits their use pursuant to its rules and they will pursue permitting authority with the EPA;

- Basic emergency response requirements were added to ensure that accidents and fires are handled appropriately and public safety issues are addressed;
- Other sections of the rules addressing wellhead equipment, tools with radioactive material, the pulling of casing, gas-oil ratios, and multiple zone completions were upgraded or added based on the existing standards used in other states to prevent waste, protect correlative rights and protect fresh water supplies;
- Responsibilities of the Department and the Oil and Gas Conservation Commission are clarified; and
- Multiple documents are incorporated by reference to allow the industry standards to be adopted in Idaho.

Negotiated rulemaking was conducted. According to the Department, participation was quite broad during the negotiations with industry representatives, nongovernmental organizations, local governments, citizens and other state agencies helped to improve the rule. The rule appears to be authorized pursuant to Section 47-317, Idaho Code.

cc: Department of Lands
Eric Wilson

IDAPA 20 - DEPARTMENT OF LANDS

20.03.15 - RULES GOVERNING THE ISSUANCE OF GEOTHERMAL LEASES

DOCKET NO. 20-0315-1102 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 58-104(6) and 58-105, Idaho Code, and Section 47-1603, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than, October 19, 2011.

The hearing sites) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule format is revised to conform with Title 67, Chapter 52, Idaho Code, and IDAPA 44.01.01. Definitions are changed for consistency and clarity. Most leases would be initially offered at auction instead of on a first-come basis. Lease term is extended up to 49 years in conformance with Section 47-1601, Idaho Code, and Section 58-307, Idaho Code. Timely exploration and development of the lease is required or the lease may be cancelled. In addition, exploration and development requirements are reorganized for clarity. Geothermal rents and royalties would be determined through bidding or set by the board according to market rates in conformance with Section 47-1605, Idaho Code. The size of a lease is not restricted and will be determined by the Land Board in conformance with Section 47-1604, Idaho Code. Reinjection of surplus geothermal water is required to recharge the geothermal aquifer. The confidentiality of well logs is limited to one year in conformance with Section 42-4010(b) Idaho Code. Bond amounts are to be determined based on the costs of reclamation in conformance with Section 47-1608 Idaho Code. Application fees are increased to the amount needed to cover administrative costs.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

Application fees are raised from \$25 to \$250. Assignment fees are raised from \$20 to \$150. The increased fees are needed to cover the administrative costs of processing these requests, and are consistent with other applications on state lands.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the [July 6, 2011 Idaho Administrative Bulletin, Volume 11-7, page 132](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Eric Wilson, Minerals Program Manager, at (208) 334-0261 or ewilson@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2011.

DATED this 29th day of August, 2011.

Eric Wilson, Minerals Program Manager
Idaho Department of Lands
300 N 6th Street, Suite 103
Boise, ID 83720
(208) 334-0261

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 20-0315-1101

000. LEGAL AUTHORITY.

~~These rules are promulgated by the Idaho State Board of Land Commissioners (“Board”) pursuant to Title 47, Chapter 16 and Title 67, Chapter 52, Idaho Code, and are intended to satisfy the Board’s mandate (Idaho Constitution, Article 9) to maximize the long-term return on state mineral lands by encouraging leasing and development of the geothermal resources while preventing waste and protecting the other natural resources of the state mineral lands. This Chapter is adopted under the legal authorities of Sections 58-104(1), 58-104(6), 58-104(9), 58-105, and 58-127, Idaho Code; Section 58-307, Idaho Code; Title 47, Chapter 7, Idaho Code; Title 47, Chapter 16, Idaho Code; and Title 67, Chapter 52, Idaho Code.~~ (9-3-91)()

~~001.—002. (RESERVED)~~

001. TITLE AND SCOPE.

01. Title. These rules will be cited as IDAPA 20.03.15, “Rules Governing Geothermal Leasing on Idaho State Lands.” ()

02. Scope. These rules apply to the exploration and extraction of any and all geothermal resources situated in state-owned mineral lands. ()

03. Other Laws. Operators engaged in the leasing, exploration, and extraction of state owned geothermal resources must comply with all applicable laws and rules of the State of Idaho including, but not limited to, the following: ()

a. Idaho water quality standards and waste water treatment requirements established in Title 39, Chapter 1, Idaho Code; IDAPA 58.01.02, “Water Quality Standards and Wastewater Treatment Requirements”; and IDAPA 58.01.11, “Ground Water Quality Rule,” administered by the IDEQ. ()

b. Requirements and procedures for hazardous and solid waste management, as established in Title 39, Chapter 44, Idaho Code, and rules promulgated thereunder including, IDAPA 58.01.05, “Rules and Standards for Hazardous Waste” and IDAPA 58.01.06, “Solid Waste Management Rules,” administered by the IDEQ. ()

c. Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the IDWR. ()

002. WRITTEN INTERPRETATIONS.

The Idaho Department of Lands maintains written interpretations of its rules which may include, but may not be limited to, written procedures manuals and operations manuals and other written guidance, which pertain to the interpretation of the rules of this chapter. Copies of interpretations, subject to the exemptions in Title 9, Chapter 3, Idaho Code, Sections 9-340A through 9-340H, are available for public inspection and copying at the director’s office of the Idaho Department of Lands, 300 North 6th Street, Suite 103, Boise, Idaho. ()

003. ADMINISTRATIVE APPEALS.

Any person aggrieved by any final agency action will be entitled to judicial review pursuant to the provisions of Title

67, Chapter 52, Idaho Code, IDAPA 20.01.01, and Title 47, Chapter 16, Idaho Code. ()

~~01. Preference Rights.~~ *Where contests arise as to the preference rights of claimants for lands under the control of the Board, it shall have full power to hold a hearing thereon and to direct the taking of evidence concerning the questions involved, either directly or through a subcommittee of the Board or a designated hearing officer. Any hearing shall be recorded in full. The Board shall make findings of fact and conclusions of law, enter its order with respect thereto, and notify the parties to such hearing of its findings, conclusions and order.* (9-3-91)

~~02. Written Protest.~~ *No claimant for lands under control of the Board can appeal for judicial review of a decision of the Board involving any sale, lease or disposition of state lands, or any action relating thereto, unless such claimant files a written protest with respect thereto with the Board within thirty (30) days after the final decision of the Board relating to such matter; or, with respect to decisions rendered prior to the effective date of these rules within thirty (30) days after such effective date. This provision shall not relate to disputes between the Board and any party as to the ownership or title to any lands or geothermal resources.* (9-3-91)

~~03. Appeal to Board.~~ *To obtain review of any final action taken by the director himself pursuant to authority contained expressly or impliedly under these rules, any person adversely affected thereby must within thirty (30) days after his action petition the Board in writing for leave to appeal, stating the grounds therefore, which petition will be acted upon by the Board within sixty (60) days after filing with the director or be treated as denied. The Board may dispose of appeals in a summary manner.* (9-3-91)

~~004. -- 009. (RESERVED)~~

004. INCORPORATION BY REFERENCE.
There are no documents that have been incorporated by reference into this rule. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The principal place of business of the Idaho Department of Lands is 300 North 6th Street, Suite 103, Boise, Idaho and it is open from 8 a.m. To 5 p.m., Monday through Friday, except legal holidays. The mailing address is: Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720-0050. The telephone number of the office is (208) 334-0200 and the fax number is (208) 334-2339. ()

006. PUBLIC RECORDS ACT COMPLIANCE.
The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

~~0047. -- 009. (RESERVED)~~

010. DEFINITIONS.
For purposes of these rules, unless otherwise indicated herein by express term or by context, the term: (9-3-91)

~~01. Accountable Acreage Holdings.~~ *An interest in the acres held under lease subject to an agreement to pay a percentage based on production.* (9-3-91)

021. Associated By-Products or By-Product: (9-3-91)()

a. Any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium), which are found in solution or developed in association with geothermal resources ~~and which have a value of less than seventy five percent (75%) of the value of the geothermal resources or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves; and~~ or (9-3-91)()

b. ~~Commercially d~~emineralized or mineralized water. (9-3-91)()

~~032. Available State Lands.~~ *All state lands except those state lands already leased ~~and those state lands of which the Board has withdrawn from leasing, declared a Known Geothermal Resources Area, (KGRA), or reserved for research and development or other purposes.~~* (9-3-91)()

~~043.~~ **Board.** The Idaho State Board of Land Commissioners or ~~such representatives as may be designated by the Board~~ its designee. (9-3-91)()

~~04.~~ **Completion.** A well is considered to be completed thirty (30) days after drilling operations have ceased and the drill rig is removed from the premises or thirty (30) days after the initial production or injection test has been completed, whichever occurs last. ()

~~05.~~ **Department.** The Idaho Department of Lands ~~located at 300 North 6th Street, Suite 103, Boise, Idaho, P.O. Box 83720, Boise, Idaho 83720-0050~~ or its designee. (9-3-91)()

~~06.~~ **Director.** The ~~director~~ head of the Idaho Department of Lands or ~~such representative as may be designated by the director~~ his designee. (9-3-91)()

~~07.~~ **Direct Use.** The use of geothermal resources for space heating of buildings, recreation, greenhouse warming, aquaculture, or industrial applications where geothermal heat is used in place of other energy inputs. ()

~~08.~~ **Electrical Generation.** The use of geothermal resources to either directly generate electricity or to heat a secondary fluid and use it to generate electricity. ()

~~09.~~ **Field.** A geographic area overlying a geothermal system with one (1) or more geothermal reservoirs. ()

~~0710.~~ **Geothermal Resources.** The natural heat energy of the earth, the energy, in whatever form, which may be found in any position and at any depth below the surface of the earth present in, resulting from, or created by, or which may be extracted from, such natural heat, and all minerals in solution or other products obtained from the material medium of any geothermal resource. When used without restriction, it includes associated by-products.

~~0811.~~ **Lease.** A lease covering the geothermal resources and associated by-products in state lands. (9-3-91)

~~0912.~~ **Lessee.** The person to whom a geothermal lease has been issued and his successor in interest or assignee. It also means any agent of the lessee or an operator holding authority by or through the lessee. (9-3-91)

~~13.~~ **Market Value.** The most probable price at a specified date, in cash, or on terms reasonably equivalent to cash, for which the property or commodity should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. ()

~~14.~~ **Motorized Earth-Moving Equipment.** Backhoes, bulldozers, front-loaders, trenchers, core drills, drill rigs, power augers, and other similar equipment. ()

~~105.~~ **Operator.** The person having control or management of operations on the leased lands or a portion thereof. The operator may be the lessee, designated operator, or agent of the lessee, or holder of rights under an approved operating agreement. (9-3-91)

~~146.~~ **Overriding Royalty.** An interest in the geothermal resource produced at the surface free of any cost of production. It is a royalty in addition to the royalty reserved to the state. (9-3-91)

~~127.~~ **Person:** Any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representatives of any kind, and includes any government or any political subdivision of any agency thereof. The masculine gender, in referring to a person, includes the feminine and the neuter genders. (9-3-91)()

~~a.~~ A United States citizen of legal age; (9-3-91)

~~b.~~ ~~Any firm, association, or corporation which is qualified to do business in the state of Idaho, and is not in default under the laws of the state of Idaho, relative to qualifications to do business within this state; or~~ (9-3-91)

~~e.~~ ~~Any public agency or governmental units, including without limitation, municipalities.~~ (9-3-91)

~~138.~~ **Record Title.** The publicly recorded lease which is the evidence of right that a person has to the possession of the leased property. (9-3-91)

~~19.~~ **Reservoir or Pool.** A porous, permeable geologic layer containing geothermal resources. ()

~~20.~~ **Shut In.** To close the valves at the wellhead so that the well stops flowing or producing. Also describes a well on which the valves have been closed. ()

~~1421.~~ **State Lands.** Without limitation, lands in which the title to the mineral rights are owned by the state of Idaho and are under the jurisdiction and control of the Board or under the jurisdiction and control of any other state body or agency, having been obtained from any source and by any means whatsoever, including the beds of navigable waters of the state of Idaho. (9-3-91)

~~22.~~ **Waste.** Any physical loss of geothermal resources including, but not limited to: ()

~~a.~~ Underground loss of geothermal resources resulting from inefficient, excessive, or improper use, or dissipation of geothermal energy, or of any geothermal resource pool, reservoir, or other source; or the locating, spacing, constructing, equipping, operating, or producing of any well in a manner which results, or tends to result in reducing the quantity of geothermal energy to be recovered from any geothermal area in the state; ()

~~b.~~ The inefficient above-ground transporting and storage of geothermal energy; and the locating, spacing, equipping, operating, or producing of any well or injection well in a manner causing or tending to cause unnecessary or excessive surface loss or destruction of geothermal energy; the escape into the open air from a well of steam or hot water in excess of what is reasonably necessary in the efficient development or production of a well. ()

011. ABBREVIATIONS.

~~01.~~ **IDAPA.** Idaho Administrative Procedure Act. ()

~~02.~~ **IDEO.** Idaho Department of Environmental Quality. ()

~~03.~~ **IDWR.** Idaho Department of Water Resources. ()

012. -- 019. (RESERVED)

~~020.~~ APPLICABILITY.

~~01.~~ ~~State Lands.~~ ~~These rules apply to the exploration and extraction of any and all geothermal resources situated in state-owned mineral lands.~~ (9-3-91)

~~021.~~ **Other Geothermal Resources.** These rules apply to all geothermal resources where other rules and regulations are silent or where the geothermal resource is otherwise regulated. (9-3-91)

~~032.~~ **Exclusions.** These rules do not apply to the application and leasing of other mineral resources covered by Title 47, Chapter 7, Idaho Code, nor the application and leasing of oil and gas resources covered by Title 47, Chapter 8, Idaho Code. (9-3-91)

~~0201.~~ QUALIFIED APPLICANTS AND LESSEES.

Any person as defined in Subsection 010.127 ~~shall be~~ of this rule, is qualified to lease the geothermal resources in state lands or take or hold an interest therein unless the Board first determines, after notice and hearing, for good

cause shown, that a person is disqualified from leasing or taking or holding an interest in geothermal resources in state lands. No member of the Board, the director, or employee of the department may take or hold any such lease or interest in state lands. (9-3-91)()

0212. APPLICATION AND PROCESSING—SIMULTANEOUS FILINGS LEASE AWARD THROUGH AUCTION.

01. Filing. ~~An application for a geothermal resources lease shall be submitted to the department in Boise on a department form or exact copies thereof and shall contain the following: name, address, telephone number, and the notarized signature of the applicant; power of attorney if applicant is an agent; legal description of lands applied for; the application fee specified in Section 120; and shall comply with the size requirements of Section 040.~~ **Auctions Required.** Except for requests to the Board as described in Subsection 022.02 of these rules, all leases must be awarded through a public action. Collusion between bidders is a violation of these rules and may result in the department voiding the auction results and cancelling any leases that were issued. (9-3-91)()

02. Simultaneous Filings. ~~Applications for a geothermal resource lease shall be considered in the order in which they are filed. Should two (2) or more applications be received on the same day for the same site, they shall be considered as simultaneous filings.~~ **Leasing Additional Lands.** Leases may be issued without going to auction in any of the following situations: (9-3-91)()

a. A tract that was offered at auction but not awarded is available for application and leasing for one (1) year following the auction. ()

b. An existing geothermal lessee who is in production and paying royalties to the state may request that the board issue them additional geothermal leases for unleased state lands located adjacent to the producing leases and in the same geothermal field as the leased lands. ()

c. A person who has leased private and federal lands that adjoin or encompass state lands may request that the board issue them geothermal leases for any unleased and adjoining state lands located in the same geothermal field. The request will not be unreasonably denied. ()

03. Conflicts. ~~Conflicts resulting from simultaneous filings shall be resolved by a competitive auction to be held within thirty (30) days receipt of the simultaneous filings.~~ (9-3-91)

04. Notice. ~~The department shall give notice to the conflicting applicants by certified mail. The notice shall contain the legal description of the lands in conflict, the date, time and place of the competitive auction.~~ (9-3-91)

0223. -- 029. (RESERVED)

030. TERM.

01. Ten-Year Lease Term. All leases shall ~~may~~ be for a ~~primary~~ term of ~~up to ten forty-nine (1049)~~ years from the effective date of the lease. ~~The effective date of the lease shall be the first day of the month following Board approval.~~ (9-3-91)()

02. Diligent Drilling. ~~If, at the expiration of the primary term of the lease, geothermal resources are not being produced or demonstrably capable of being produced from the leased land, but the lessee is actively engaged in drilling operations one thousand (1,000) feet or deeper, then the lease shall continue in force so long as drilling operations are being diligently and continuously prosecuted on the leased land or upon lands with which the leased land is unitized. Drilling operations shall be considered to be diligently and continuously prosecuted if not more than one hundred twenty (120) days shall elapse between the completion or abandonment of one (1) well and the beginning of operations for the drilling of another well. For good cause shown, the director may extend the time for an additional period, not to exceed one hundred twenty (120) days. A written request must be received by the director at least ten (10) calendar days before the expiration of the initial one hundred twenty (120) day period.~~ (9-3-91)

~~03. Continuation of Lease. If geothermal resources are produced or utilized in paying quantities within the primary term of the lease or as extended under Subsection 030.02, that lease shall continue for so long thereafter as geothermal resources are produced or utilized in paying quantities, but the lease shall in no event continue for more than forty (40) years after the end of the primary term. The lessee shall have a preferential right to a renewal of his lease for a second forty (40) year term upon such terms and conditions as the Board deems appropriate after notice and an opportunity to be heard, if at the end of the first forty (40) year term geothermal resources are produced or utilized in paying quantities; provided, however, that the royalty during the second forty (40) year term shall not exceed fifteen percent (15%). Production or utilization of geothermal resources in paying quantities shall be deemed to include the completion of one or more wells producing or capable of producing geothermal resources for delivery to or utilization by a facility or facilities not yet installed, but scheduled for installation.~~ (9-3-91)()

~~04. Diligence in Utilization. Lessee shall will use due diligence to market or utilize geothermal resources in paying quantities. If leased land is capable of producing geothermal resources in paying quantities, but production is shut-in, the lease shall will continue in force upon payment of rentals for the duration of the primary lease term or five two (52) years after shut-in, whichever is longer shorter. If the director Department determines that the lessee is proceeding diligently to acquire a contract to sell or to utilize the production or is progressing with installations needed for production, the lease shall may continue in force for an one (1) additional five (5) years; upon payment of rentals, otherwise the lease may be terminated by the Board if rental payments are kept current. The director shall Department will continue to review a shut-in leases every five (5) years until production and payment of royalties takes place, or the lease is terminated by the Board for lessee's lack of due diligence or surrendered by the lessee.~~ (9-3-91)()

~~03. Yearly Reporting. A report of all exploration, development, and production activities must be submitted to the department at the close of each lease year.~~ ()

~~05. By Products. A lease that has been extended by reason of production or utilization of geothermal resources and which has been determined by the director to be incapable of further commercial production and utilization may be further extended for five (5) years if one or more valuable by products are produced in commercial quantities. The Board may extend the lease for one or more additional five (5) year terms upon such terms and conditions as the Board deems fit to allow continued production of one or more valuable by products in commercial quantities.~~ (9-3-91)

031. LEASE EXPIRATION.

~~Prior to lease expiration, the lessee will have the first right of refusal for a new lease of up to forty-nine (49) years upon such terms and conditions as the department deems appropriate after notice and an opportunity to negotiate a new lease.~~ ()

~~034.2. -- 034. (RESERVED)~~

035. RENTALS.

~~01. Advance Annual Rental. Lessee shall will pay to the state of Idaho in advance each year an annual rental for each acre or fraction thereof under lease. The annual rental for the first year of the term shall will be due and payable and shall will be received in the offices of the department in Boise, together with a lease agreement executed by lessee within thirty (30) days of the date of notice of approval or award. The department will notify the applicant or his representative designated in the application to lease by certified or registered mail of the Board's approval of a lease and specify the exact amount of rental due thereon and the bond requirement under Section 100. Failure to return an executed lease together with the first year rental and bond within thirty (30) days shall will result in automatic rejection of the application without further action of the director Department or Board. Second year and subsequent rental payments must be received in the office of the department in Boise on or before the anniversary date of the lease. Failure to pay exact rental shall constitute grounds for immediate termination of the lease by the director who shall note the termination on the official records of the department.~~ (9-3-91)()

~~02. Amount. Annual rentals for each acre or fraction thereof under lease shall will be as follows: set by the Board through competitive bidding, negotiation, fixed amounts, formulas, or some other method.~~ (9-3-91)()

- ~~a. One dollar (\$1) per acre for the first five (5) years; (9-3-91)~~
- ~~b. Two dollars (\$2) per acre for the second five (5) years; (9-3-91)~~
- ~~c. Three dollars (\$3) per acre thereafter. (9-3-91)~~

036. ROYALTIES.

01. Royalty Payments. The lessee ~~shall will~~ cause to be paid to the state of Idaho ~~the following~~ royalties on the value of geothermal production from the leased premises. ~~The royalty rate will be established by the Board based on the market value of the geothermal resources produced from the lands under lease. The royalties specified in geothermal leases will be fixed in any manner by the state board of land commissioners, including but not limited to competitive bidding, negotiation, fixed amounts, or formulas. Royalty rates may be adjusted through the term of the lease in order to keep pace with market values. When leases are issued, the following guidelines will be used for royalty rates not subject to competitive bidding; (9-3-91)()~~

~~a. A royalty of ten percent (10%) between five percent (5%) and twenty percent (20%) of the amount or value of geothermal resources, or any other form of heat or energy excluding electrical power generation, derived from production under the lease and sold or utilized by the lessee or reasonably susceptible to sale or utilization by the lessee, unless used or consumed by lessee in his production operations; (9-3-91)()~~

~~b. A royalty of five percent (5%) between two percent (2%) and fifteen percent (15%) of the amount or value of any associated by-product derived from production under the lease and sold or utilized or reasonably susceptible of sale or utilization by the lessee, including commercially demineralized water, except that no payment of a royalty will be required on such water if it is used in plant operation for cooling or in the generation of electric energy or otherwise. No royalty shall be paid for associated by products used or consumed by lessee in his production operations. (9-3-91)()~~

~~c. A royalty of between two percent (2%) and five percent (5%) of gross receipts for sale of electrical power. ()~~

02. Calculation of Value. The value of geothermal production from the leased premises for the purpose of computing royalties shall be the following: (9-3-91)

~~a. The total consideration accruing to the lessee from the sale thereof in cases where geothermal resources are sold by the lessee to another party in an arms-length transaction; or (9-3-91)~~

~~b. The value of the end product attributable to the geothermal resource produced from a particular lease where geothermal resources are not sold by the lessee before being utilized, but are instead directly used in manufacturing power production, or other industrial activity; or (9-3-91)~~

~~c. The value of all renewable energy credits or similar incentives based on a proportionate share of the leased lands in the entire project area qualifying for the credits. ()~~

~~ed. When a part of the resource only is utilized by the lessee and the remainder sold, the sum of Subsections Paragraphs 036.02.a. and through 036.02.bc. immediately above of this rule. (9-3-91)()~~

~~03. Notice of Discovery. Lessee shall within fifteen (15) days notify the director of the discovery upon the leased premises of geothermal resources before any such geothermal resources are used or removed for commercial purposes from the leased land or utilized thereon. (9-3-91)~~

043. Due Date. Royalties will be due and payable monthly in the office of the department in Boise on or before the last day of the calendar month following the month in which the geothermal resources and/or their associated by-products are produced and utilized or sold. (9-3-91)

054. Disposal Utilization of Geothermal Resources. The lessee ~~shall~~ must file with the ~~director~~

Department within thirty (30) days after execution a copy of any contract for the disposal utilization of geothermal resources from the lease. Reports of sales or utilization by lessee and royalty for each productive lease must be filed each month once production begins, even though production may be intermittent, unless otherwise authorized by the director Department. Total volumes of geothermal resources produced and utilized or sold, including associated by-products, the value of production, and the royalty due the state of Idaho must be shown. This report is due on or before the last day of the month following the month in which production was obtained and sold or utilized, together with the royalties due the state of Idaho. (9-3-91)()

065. Measurement. The lessee shall will measure or gauge all production in accordance with methods approved by the director Department. The quantity and quality of all production shall will be determined in accordance with the standard practices, procedures and specifications generally used in industry. All measuring equipment shall must be tested consistent with industry practice and, if found defective, the director Department will determine the quantity and quality of production from the best evidence available. (9-3-91)()

076. By-Product Testing. The lessee shall will periodically furnish the director Department the results of periodic tests showing the content of by-products in the produced geothermal resources. Such tests shall will be taken as specified by the director Department and by the method of testing approved by him, except that tests not consistent with industry practices shall will be conducted at the expense of the state of Idaho. (9-3-91)()

087. Commingling. The director Department may authorize a lessee to commingle production from wells on his State lease(s) with production from ~~other leases held by him or by other lessees subject to such conditions as he may prescribe, but lessee shall not do so without the director's approval.~~ non-state lands. Department approval of commingling will not be unreasonably withheld, and will consider the following: (9-3-91)()

- a. The operator's economic necessity of commingling; ()
- b. The type of geothermal use proposed for the commingled waters; and ()
- c. Sufficient measurement and accounting of all the commingled waters to ensure that the department is appropriately compensated by royalties. ()

037. -- 039. (RESERVED)

040. SIZE OF A LEASABLE TRACT.

01. ~~Maximum Size.~~ ~~A geothermal resource lease will include all available state lands within a section, at time of lease issuance, with only lands from one (1) section allowed to be included in any one (1) lease. A geothermal resource lease on state lands will therefore be limited to six hundred and forty (640) acres, or one (1) Section, should the entire section be larger than six hundred and forty (640) acres.~~ Surface Area. Geothermal leases are not limited in surface area. The Board will determine the surface area of a lease after consultation with other state agencies and prospective lessees. The probable extent of a geothermal reservoir, the surface area needed for a viable project, and other relevant factors will be used to help determine lease surface area. (9-3-91)()

02. Navigable Water Courses. Geothermal resources leases may be issued for state lands underlying navigable water courses in Idaho. Such lands are considered "state lands" and will be leased in accordance with ~~Subsection 040.01~~ these rules. Operations in the beds of navigable water courses will not be authorized except in extraordinary circumstances and then only with express written approval of the Board upon such conditions and security as the director Department deems appropriate. (9-3-91)()

041. -- 044. (RESERVED)

045. ~~KNOWN GEOTHERMAL RESOURCE AREAS; PUBLIC AUCTION~~ LESSEE DESIGNATION OF OPERATOR OR AGENT.

01. ~~KGRA Designation.~~ ~~The director may from time to time designate certain state lands as being within a Known Geothermal Resources Area (KGRA). Geothermal resources leases issued upon lands so designated~~

~~shall be upon a competitive bid basis at public auction under such terms and conditions as the director sets. Before leasing geothermal resources owned by the state within a KGRA, the director will advertise the availability of these state lands within a KGRA by posting a notice in the offices of the department in Boise and causing the notice to appear at least once in a newspaper of general circulation in Idaho at least thirty (30) days before the date of the public auction, and mailing a copy to interested persons on a geothermal resources mailing list. Failure to give notice by mail shall not prejudice any procedure or award of leases under these rules. Prevailing bidders shall pay the costs of the public auction and advertising in proportion to the cost of acreage leased in said auction.~~ **Designation of Operator.** In all cases where exploration, development, or production operations are not conducted by the lessee but are to be conducted under authority of an unapproved operating agreement or other arrangement, a designation of operator will be submitted to the department prior to commencement of such operations. Such a designation will be accepted as authority of the operator or his local representative to act for the lessee and to sign any papers or reports required under these rules. All changes of address and any termination of the authority of the operator will be immediately reported, in writing, to the department. (9-3-91)()

02. Consultation. ~~The director will consult with the department of water resources prior to designating state lands as being within a KGRA. Actual production in the vicinity of state lands shall be the primary evidence of a KGRA for purposes of these rules. The director may hold a public hearing prior to determining that state lands are within a KGRA.~~ **Agent for Service.** When required by the department, lessee will designate a local representative empowered to receive service of civil or criminal process, and notices and orders of the department issued pursuant to these rules. (9-3-91)()

046. -- 049. (RESERVED)

050. LAND SURFACE USE RIGHTS AND OBLIGATIONS.

~~**01. Casual Exploration.** At any time after formal approval by the Board of a lease application, lessee may enter upon the leased lands for casual exploration or inspection without notice to the director. As an express condition of an application to lease and of the right of casual inspection without notice, lessee agrees to the indemnity conditions provided in Section 102 without a formally executed lease. Lessee may not enter upon the leased lands for exploration operations using motorized equipment or otherwise engaging in operations which may lead to an appreciable disturbance or damage to lands, timber, other resources or improvements on or adjacent to the leased lands until there is in existence a fully executed lease and the preconditions in Sections 055, 100 and 101 have been satisfied. (9-3-91)~~

~~**02. Motorized Exploration.** Before entering upon the leased lands for exploration operations using motorized equipment or otherwise engaging in operations which may lead to an appreciable disturbance or damage to lands, timber, other resources or improvements on or adjacent to the leased lands, lessee shall file with the director, in writing, notice of the following: (9-3-91)~~

- ~~**a.** Name and address of the operator. (9-3-91)~~
- ~~**b.** The location of the operation and the starting date and estimated completion date. (9-3-91)~~
- ~~**c.** The anticipated size or scope of the operations in terms of manpower and equipment, and the general method of operation. (9-3-91)~~
- ~~**d.** Prior to the initiation of operations to drill a well for any purpose to one thousand (1,000) feet or deeper, lessee shall file with the director for approval a plan of operations provided in Subsection 055.05 and increase the surety bond to ten thousand dollars (\$10,000) as provided in Section 100. (9-3-91)~~

~~**031. Use and Occupancy. ()**~~

~~**a.** Lessee shall will be entitled to use and occupy only so much of the surface of the leased lands as may be required for all purposes reasonably incident to exploration for, drilling for, production and marketing or geothermal resources and associated by-products produced from the leased lands, including the right to construct and maintain thereon all works, buildings, plants, waterway, roads, communication lines, pipelines, reservoirs, tanks, pumping stations or other structures necessary to the full enjoyment and development thereof, consistent with a plan~~

of operations and amendments thereto, as approved by the ~~director~~ **Department**. (9-3-91)()

b. Uses occurring on the leased area related to exploration, development, production, or marketing of geothermal resources and associated by-products produced from off-lease lands may require the lessee to pay additional rent. ()

042. **Supervision.** Uses of state lands within the jurisdiction and control of the Board are subject to the supervision of the ~~director~~ **Department**. Other state lands are subject to the supervision of the appropriate state agency consistent with these rules. (9-3-91)()

053. **Entry by ~~Director~~ **Department**.** The ~~director shall~~ **Department will** be permitted at all reasonable times to go in and upon the leased lands and premises, during the term of a lease, to inspect the operations and the products obtained from the leased premises and to post any notice that the ~~director~~ **Department** may deem fit and proper. (9-3-91)()

064. **Public Access.** During operations, the lessee ~~shall will~~ regulate public access and vehicular traffic to protect human life, wildlife, livestock and property from hazards associated with the operations. For this purpose, the lessee ~~shall will~~ provide warning, fencing, flagmen, barricades, well and hole coverings and other safety measures as appropriate. Restrictions on access must be approved by the ~~director~~ **Department** as part of a plan of operations under ~~Rule~~ Section 055. (9-3-91)()

075. **Other Uses.** Operations under other leases or uses on the same lands shall not unreasonably interfere with or endanger operations under leases issued under these rules nor shall operations under these rules unreasonably interfere with or endanger operations under any lease, license, claim, permit or other authorized use pursuant to the provisions of any other Idaho law. (9-3-91)

086. **Distance from Residence.** No well ~~shall may~~ be drilled within two hundred (200) feet of any house or barn on the premises, without the written consent of the ~~director~~ **Department** and its surface lessees, grantees or contract purchasers. (9-3-91)()

097. **Fences.** Lessee ~~shall will~~ not at any time fence any watering place upon leased lands where the same is the only accessible and feasible watering place upon the lands within a radius of one (1) mile without first having secured the written consent of the ~~director~~ **Department**. (9-3-91)()

108. **Timber Removal.** Lessee ~~shall must~~ not unreasonably interfere with the removal of timber purchased prior to or subsequent to the issuance of a lease. Lessee may remove any timber required for ingress or egress or necessary for operations. Any timber cut or removed by lessee ~~shall must~~ be paid for by lessee on a current stumpage price basis as determined by the ~~director~~ **Department**. (9-3-91)()

109. **Grazing.** A geothermal resources lease shall not be construed to prohibit the leasing of the leased lands by the Board to other persons for grazing and agricultural purposes, or for the mining of minerals or for oil and gas development; provided, however, that the lessee under a geothermal resources lease shall have paramount right as against grazing and agricultural lessees to the use of so much of the surface of the land as shall be necessary for the purposes of the lease. All lessees shall have the right of ingress and egress at all times during the term of the lease. (9-3-91)

120. **Disposal of Leased Land.** The Board reserves the right to sell or otherwise dispose of the surface of the lands embraced with a lease, insofar as said surface is not necessary for the use of the lessee in the exploration, development and production of the geothermal resources and associated by-products, but any sale of surface rights made subsequent to execution of a lease ~~shall will~~ be subject to all the terms and provisions of that lease during the life thereof, ~~including extensions and renewals under Section 030.~~ (9-3-91)()

131. **Damage.** Lessee shall pay to the Board, its surface lessees or grantees or contract purchasers, for any damage done to the surface of said lands and improvements thereon, including without limitation growing crops, by reason of lessee's operations. (9-3-91)

~~14. **Potable Water Discovery.** All leases issued under these rules shall be subject to the condition that,~~

~~where the lessee finds only potable water of no commercial value as a geothermal resource in any well drilled for exploration or production of geothermal resources, and when the water is of such quality and quantity as to be valuable and usable for agricultural, domestic, or other purpose, the Board, or where appropriate, the surface lessee, grantee or contract purchaser, shall have the right to acquire the well with whatever casing is installed in the well at the fair market value of the casing, and upon the assumption of all future liabilities and responsibilities for the well, with the approval of the director of the department of water resources. (9-3-91)~~

~~15. **Reclamation.** Lessee shall reclaim all state lands disturbed by exploration, development, operation and marketing of geothermal resources in accordance with applicable reclamation procedures contained in Section 47-1509 and 47-1510, Idaho Code, as now existing and hereafter amended. Lessee shall conserve, segregate, stockpile and protect topsoil to enhance reclamation. Lessee shall take all necessary steps in the exploration, development, operation and marketing of geothermal resources to avoid a threat to life or property or an unreasonable risk to subsurface, surface or atmospheric resources. (9-3-91)~~

~~051. **DILIGENT EXPLORATION.**~~

~~Each lease will include provisions for the diligent exploration of the leased resources until there is production in commercial quantities from the state lands subject to lease, and failure to perform such exploration may subject the lease to termination. Diligent exploration means exploration operations on or related to the leased lands, including without limitation geochemical surveys, heat flow measurements, core drilling, or drilling of a test well. A report of all exploration operations and expenditures must be submitted to the director at the close of each lease year. (9-3-91)~~

~~052. -- 0543. (RESERVED)~~

054. EXPLORATION UNDER THE LEASE.

01. Diligent Exploration. Lessees must perform diligent exploration and development activities in the first five (5) years of the initial lease term. Diligent exploration includes seismic, gravity, and other geophysical surveys, geothermometry studies, drilling temperature gradient wells, or similar activities that seek to determine the presence or extent of geothermal resources. This exploration may occur off-lease if it is being done on the same geothermal field. Failure to perform diligent exploration as described may result in lease cancellation. ()

02. Casual Exploration. At any time after formal approval by the Board of a lease application, lessee may enter upon the leased lands for casual exploration or inspection without notice to the department. As an express condition of an application to lease and of the right of casual inspection without notice, lessee agrees to the indemnity conditions provided in Section 102 of these rules without a formally executed lease. ()

03. Plan Required. Lessee must submit a plan of operations to the department before any exploration using motorized equipment or before otherwise engaging in operations which may lead to an appreciable disturbance or damage to lands, timber, other resources, or improvements on or adjacent to the leased lands. The proposed activities may not start until the department approves the plan and the applicable preconditions in Sections 100 and 101 of these rules have been satisfied. The plan of operations may be amended as needed with department approval. The plan must include: ()

a. Well drilling information such as the proposed location of each well including a layout showing the position of the mud tanks, reserve pits, etc.; ()

b. Existing and planned access, access controls, and lateral roads; ()

c. Location and source of water supply (if needed) and road building material; ()

d. Location of camp sites, air-strips, buildings, pipelines, and other supporting facilities; ()

e. Other areas of potential surface disturbance; ()

f. The topographic features of the land and the drainage patterns; ()

g. Methods for disposing of waste material; ()

h. A narrative statement describing the proposed measures to be taken for protection of the environment, including, but not limited to the prevention or control of: ()

i. Fires: ()

ii. Soil loss and erosion: ()

iii. Pollution of surface and ground waters: ()

iv. Damage to fish and wildlife or other natural resources: ()

v. Air and noise pollution; and ()

vi. Hazards to public health and safety during lease activities. ()

i. All pertinent information or data which the department may require to support the plan of operations for the utilization of geothermal resources and the protection of the environment; ()

j. An estimate of reasonable reclamation costs for reclamation performed by an outside party. This estimate will form the basis for the bond required in Section 100 of these rules; and ()

k. A map or maps of sufficient scale to depict the information required in Paragraphs a. through j. of this Subsection. ()

055. OPERATIONS PRODUCTION UNDER THE LEASE.

01. Diligent Development of Lease and Production. Lessee must develop the geothermal resources on their lease area within the first ten (10) years of the initial lease term and start production. Development of the lease area requires wells to be drilled and other necessary infrastructure to be built. Production on the lease area means that geothermal fluids are being used and royalties are being paid to the state. Failure to develop the lease and start production as described may result in lease cancellation unless the lessee applies to the department for an extension and the extension is granted. ()

~~02.~~ **Best Practices.** All operations will conform to the best practice and engineering principles in use in the industry. Operations shall must be conducted in such a manner as to protect the natural resources on the leased lands, including without limitation geothermal resources, and to result in the maximum ultimate recovery of geothermal resources with a minimum of waste, and be consistent with the principles of the use of the land for other purposes and of the protection of the environment. ~~Operations shall be conducted with due regard for the safety and health of employees.~~ Lessee shall must promptly remove from the leased lands or store, in an orderly manner, all scraps or other materials not in use and not reasonably incident to the operation. Lessee shall notify the director of all accidents within twenty-four (24) hours and shall submit a written report within thirty (30) days. (9-3-91)()

~~02.~~ **Compliance with Rules.** Lessee shall comply with and be subject in all respects to the conditions, limitations, penalties and provisions of the laws of the state of Idaho and the rules of the Board, the Department of Water Resources, the Department of Environmental Quality, and all other federal, state and local laws, now existing or hereafter enacted. (9-3-91)

03. Reclamation. Lessee must reclaim all leased lands disturbed by exploration, development, operation and marketing of geothermal resources in accordance with applicable reclamation procedures contained in Sections 47-1509 and 47-1510, Idaho Code, as now existing and hereafter amended. Lessee must conserve, stockpile, and protect topsoil to enhance reclamation. Lessee must take all necessary steps in the exploration, development, operation, and marketing of geothermal resources to avoid a threat to life or property or an unreasonable risk to subsurface, surface, or atmospheric resources. ()

034. Waste and Damage. ()

- a.** Lessee ~~shall~~ **must** take all reasonable precautions to prevent the following: ()
- i.** ~~(1) Waste~~; ()
- ii.** ~~(2) Damage to any other natural resources including trees and other vegetation, fish and wildlife and their habitat~~; ()
- iii.** ~~(3) Injury or damage to persons, real or personal property; and~~ ()
- iv.** ~~(4) Any environmental pollution or damages that may constitute a violation of state or federal laws.~~ ()

b. The ~~director~~ **Department** may inspect lessee's operations and issue such orders as are necessary to accomplish these purposes in Paragraph 055.04.a. Any significant effect on the environment created by the lessee's operations or failure to comply with environmental standards ~~shall~~ **must** be reported to the ~~director~~ **Department** by lessee within twenty-four (24) hours and confirmed in writing within thirty (30) days. (9-3-91)()

05. Notice of Production. Lessee must notify the department within sixty (60) days before any geothermal resources are used or removed for commercial purposes. ()

046. Shut Downs. The ~~director~~ **Department** is authorized to shut down any operations which ~~he~~ **it** determines ~~are unsafe or~~ are causing, or ~~can~~ **may imminently** cause, pollution of the natural environment or waste of ~~natural resources including~~ geothermal resources upon failure by lessee to take timely, corrective measures ~~ordered by the director.~~ (9-3-91)()

~~05. Wells One Thousand Feet or Deeper. Prior to initiation of operations to drill a well for any purpose to one thousand (1,000) feet or deeper, lessee shall submit to the director for his approval a plan of operations. Such plan shall include:~~ (9-3-91)

~~**a.** The proposed location of each well including a layout showing the position of the mud tanks, reserve pits, cooling towers, pipe rack, etc.;~~ (9-3-91)

~~**b.** Existing and planned access, access controls and lateral roads;~~ (9-3-91)

~~**c.** Location and source of water supply and road building material;~~ (9-3-91)

~~**d.** Location of camp sites, air strips and other supporting facilities;~~ (9-3-91)

~~**e.** Other areas of potential surface disturbance.~~ (9-3-91)

~~**f.** The topographic features of the land and the drainage patterns;~~ (9-3-91)

~~**g.** Methods for disposing of waste material;~~ (9-3-91)

~~**h.** A narrative statement describing the proposed measure to be taken for protection of the environment, including, but not limited to the prevention or control of (1) fires, (2) soil erosion, (3) pollution of the surface and ground water, (4) damage to fish and wildlife or other natural resources, (5) air and noise pollution, and (6) hazards to public health and safety during lease activities;~~ (9-3-91)

~~**i.** All pertinent information or data which the director may require to support the plan of operations for the utilization of geothermal resources and the protection of the environment;~~ (9-3-91)

~~**j.** Provisions for monitoring deemed necessary by the director to insure compliance with these rules for the operations under the plan;~~ (9-3-91)

~~**k.** The information required for sections a through k of this section may be shown on a map or maps of sufficient scale available from state or federal sources.~~ (9-3-91)

067. Amendments. The plan of operations shall must be amended by the lessee for the director Department's approval to reflect changes in operations on the leased lands, including the installation of works, buildings, plants or structures for the production, marketing or utilization of geothermal resources. (9-3-91)()

078. Sampling. When necessary or advisable, the director shall Department will require that adequate samples be taken and tests or surveys be made using techniques consistent with industry practice, without cost to the state of Idaho, to determine the identity and character of formations; the presence of geothermal resources, water or reservoir energy; the quantity and quality of geothermal, water or reservoir energy; the amount and direction of deviation of any well from the vertical; formation, casing and tubing pressures, temperatures, rate of heat and fluid flow, and whether operations are conducted in a manner looking to the protection of the interest of the state of Idaho. Lessee will forward a copy of the results obtained from all geochemical, hydrologic, geologic, and other tests or surveys to the department within thirty (30) days of receiving the results. (9-3-91)()

~~**08. Marking of Derrick.** The lessee shall mark each derrick upon commencement of drilling operations and each producing or suspended well in a conspicuous place with his name or the name of the operator, the serial number of the lease, the number and location of the well. Whenever possible, the well location shall be described by section or tract, township, range and by quarter quarter section or lot. The lessee shall take all necessary means and precautions to preserve these markings. (9-3-91)~~

~~**09. Additional Requirements.** The lessee shall: (1) take all necessary precautions to keep all wells under control at all times; (2) utilize trained and competent personnel; (3) utilize properly maintained equipment and materials; and (4) use operating practices which insure the safety of life and property. The selection of the types and weights of drilling fluids and provisions for controlling fluid temperatures, blowout preventers and other surface control equipment and materials, casing and cementing programs, etc., to be used shall be based on sound engineering principles and shall take into account apparent geothermal gradients, depths and pressures of the various formations to be penetrated and other pertinent geologic and engineering data and information about the area. (9-3-91)~~

~~**10. Unused Wells.** Except as provided in Subsection 050.14 the lessee shall promptly plug and abandon any well on the leased land that is not used or useful, in conformity with regulations promulgated by the Idaho department of water resources or its predecessor agency. No production well shall be abandoned until its lack of capacity for further profitable production of geothermal resources has been demonstrated to the satisfaction of the director. A producible well may be abandoned only after receipt of written approval by the director. Equipment shall be removed, and premises at the well site shall be restored as near as reasonably possible to its original condition immediately after plugging operations are completed on any well except as otherwise authorized by the director. Drilling equipment shall not be removed from any suspended drilling well without taking adequate measures to close the well and protect subsurface resources. Upon failure of lessee to comply with any requirements under this rule, the director is authorized to cause the work to be performed at the expense of the lessee and the surety. (9-3-91)~~

~~**11. Designation of Operator.** In all cases where operations are not conducted by the lessee but are to be conducted under authority of an unapproved operating agreement, assignment or other arrangement, a designation of operator shall be submitted to the director prior to commencement of operations. Such a designation will be accepted as authority of the operator or his local representative to act for the lessee and to sign any papers or reports required under these rules. All changes of address and any termination of the authority of the operator shall be immediately reported, in writing, to the director. (9-3-91)~~

~~**12. Agent for Service.** When required by the director, lessee shall designate a local representative empowered to receive service of civil or criminal process, and notices and orders of the director issued pursuant to these rules. (9-3-91)~~

056. WASTE PREVENTION, DRILLING AND PRODUCTION OBLIGATIONS.

01. Waste. All leases shall be subject to the condition that the lessee will, in conducting his exploration, development and producing operations, use all reasonable precautions to prevent waste of geothermal resources and other natural resources found or developed in the leased lands. (9-3-91)

02. **Diligence.** The lessee ~~shall~~ **must**, subject to the right to surrender the lease, diligently drill and produce, ~~or unitize~~ such wells as are necessary to protect the Board from loss by reason of production on other properties, ~~or in lieu thereof, with the consent of the director shall pay a sum determined by the director as adequate to compensate the Board for failure to drill and produce any such well. The lessee shall promptly drill and produce such other wells as the director determines a reasonably prudent operator would drill in order that the lease be developed and produced in accordance with good operating practices.~~ (9-3-91)()

03. ~~Loss Through Waste or Failure to Produce. The director shall determine the value of production accruing to the Board where there is loss through waste or failure to drill and produce production wells on the lease, and the compensation due to the Board as reimbursement for such loss. Payment for such losses will be paid when billed.~~ **Prevention of Waste Through Reinjection.** Geothermal lessees must return geothermal waters to the geothermal aquifer in a manner that supports geothermal development. (9-3-91)()

04. **By-Products.** Subject to lessee's right to surrender the lease, where the ~~director~~ **Department** determines that production, use or conversion of geothermal resources under a geothermal lease is ~~susceptible~~ **capable** of producing a valuable by-product or by-products, including commercially demineralized ~~or mineralized~~ water contained in or derived from such geothermal resources for beneficial use in accordance with applicable state water laws, ~~the~~ ~~shall~~ **Department may** require substantial beneficial production or use thereof, except where ~~the~~ **Department** determines that: (9-3-91)()

a. Beneficial production or use ~~of by-products~~ is not in the interest of conservation of natural resources; or (9-3-91)()

b. Beneficial production or use ~~of by-products~~ would not be economically feasible ~~for the lessee~~; or (9-3-91)()

c. Beneficial production ~~and~~ ~~or~~ use ~~of by-products~~ should not be required for other ~~satisfactory~~ reasons ~~satisfactory to him~~. (9-3-91)

05. **Additional Requirements.** The selection of the types and weights of drilling fluids and provisions ~~for controlling fluid temperatures, blowout preventers and other surface control equipment and materials, casing and cementing programs, etc., to be used must be based on sound engineering principles and must take into account apparent geothermal gradients, depths and pressures of the various formations to be penetrated and other pertinent geologic and engineering data and information about the area. In addition, the lessee must do the following:~~ ()

a. ~~Take all necessary precautions to keep all wells under control at all times;~~ ()

b. ~~Utilize trained and competent personnel;~~ ()

c. ~~Utilize properly maintained equipment and materials; and~~ ()

d. ~~Use operating practices which insure the safety of life and property.~~ ()

06. **Unused Wells.** Except as provided in Subsection 070.02 of these rules, the lessee must promptly ~~plug and abandon any well on the leased land that is not used or useful in conformity with regulations promulgated by the IDWR or its successor agency. No production well will be abandoned until its lack of capacity for further profitable production of geothermal resources has been demonstrated to the satisfaction of the department and the department has been given an opportunity to either acquire the well permit or assign it to another party. A producible well may be abandoned only after receipt of written approval by the department. Equipment will be removed, and premises at the well site will be restored as near as reasonably possible to its original condition immediately after plugging operations are completed on any well except as otherwise authorized by the department. Drilling equipment must not be removed from any suspended drilling well without taking adequate measures to close the well and protect subsurface resources. Upon failure of lessee to comply with any requirements under this rule, the department is authorized to cause the work to be performed at the expense of the lessee and the surety.~~ ()

057. -- 059. (RESERVED)

060. EXPLORATION AND OPERATION RECORDS, CONFIDENTIALITY.

01. Drilling Records. Lessee ~~shall~~ **must** keep or cause to be kept and to be filed with the ~~department of water resources~~ **IDWR** such careful and accurate well drilling records as are now or may hereafter be required by that department. Lessee ~~shall~~ **must** file with the ~~director, Department of lands,~~ such production records and exploration evidence as required by Sections ~~036 and Rule 051~~ **030, 036, and 055 of these rules**, which records ~~shall~~ **will** be subject to inspection by the public at the offices of the department during regular business hours under such conditions as the ~~director~~ **Department** deems appropriate, subject, however, to exemptions from disclosure as set forth in Section 9-340, Idaho Code. As an express condition of the lease, the ~~director~~ **Department** may inspect and copy well drilling records filed with the ~~department of water resources~~ **IDWR** at any time after the records are filed. (9-3-91)()

02. Continuing Obligations. Lessee's obligations under this rule ~~shall~~ **will** continue beyond assignment, surrender, termination or expiration of the lease. Lessee ~~shall~~ **must**, within thirty (30) days after assignment, surrender, termination or expiration or such additional time as the ~~director~~ **Department** may grant, file all outstanding data and records required by this rule with the ~~director~~ **Department**. (9-3-91)()

03. Well Logs. ~~The confidentiality of well logs is limited to one year from well completion as stated in Section 42-4010(b), Idaho Code.~~ ()

061. -- 064. (RESERVED)

065. LESSEE'S RECORDS, RIGHT OF INSPECTION BY ~~DIRECTOR~~ **DEPARTMENT.**

Lessee ~~shall~~ **will** permit ~~director~~ **the Department** to examine during reasonable business hours all books, records and other documents and matters pertaining to operations under a lease, in ~~his~~ **lessee's** custody or control, and to make copies of and extracts therefrom ~~at the Board's expense~~. (9-3-91)()

066. -- 069. (RESERVED)

070. WATER RIGHTS.

01. Water Rights. Lessee ~~shall~~ **must** comply with all laws of the state of Idaho, including the rules and regulations of the ~~department of water resources~~ **IDWR**, regulating the appropriation of the public waters of Idaho to beneficial uses. No water right developed or obtained by lessee in conjunction with operations under this lease ~~shall~~ **will** be sold, assigned or otherwise transferred without written approval of the ~~director~~ **Department**. Upon surrender, termination or expiration of the lease, lessee ~~shall~~ **must** take all actions required by the ~~director~~ **Department** to assign to the Board all water rights, including applications, permits and licenses. Lessee ~~shall~~ **will** enjoy the right of use of any private waters upon the leased lands during the term of the lease, but not thereafter. (9-3-91)()

02. Potable Water Discovery. ~~All leases issued under these rules will be subject to the condition that, where the lessee finds only potable water of no commercial value as a geothermal resource in any well drilled for exploration or production of geothermal resources, and when the water is of such quality and quantity as to be valuable and usable for agricultural, domestic, or other purpose, the Board, or where appropriate, the surface lessee, grantee or contract purchaser, will have the right to acquire the well with whatever casing is installed in the well at the fair market value of the casing, and upon the assumption of all future liabilities and responsibilities for the well, with the approval of the director of the IDWR.~~ ()

071. -- 074. (RESERVED)

075. ASSIGNMENTS.

01. Prior Written Approval. A total or partial assignment of a lease must be approved in writing by the ~~director and no assignment shall~~ **department**. ~~Approval will not be effective until unreasonably withheld and will only be effective after~~ written approval is given. ~~An assignee must accept, and the assignor must release, all responsibility for improvements, operations, and obligations under the lease before the department approves the assignment.~~ An assignment ~~shall~~ **will** take effect ~~the first day of the month following the~~ **immediately upon** approval of the assignment. (9-3-91)()

02. Full or Partial. A lease may be assigned as to all or part of the acreage included therein to any person qualified to hold a state lease, provided that neither the assigned nor the retained part created by the assignment shall contain less than forty (40) acres. No undivided interest in a lease of less than ten percent (10%) shall be created by assignment. (9-3-91)

03. Overriding Royalty Disclosure. Overriding royalty interests created by an assignment are subject to the requirements in Section 080 of these rules. ()

034. Responsibility. In an assignment of the complete interest in all of the lands in a lease the assignor and his surety shall continue to be responsible for performance of any and all obligations under the lease until the effective date of the assignment. After the effective date of any assignment, the assignee and his surety shall be bound by the terms of the lease to the same extent as if the assignee were the original lessee, any conditions in the assignment to the contrary notwithstanding. (9-3-91)

045. Segregation of Assignment. An assignment of the record title of the complete interest in a portion of the lands in a lease shall clearly segregate the assigned and retained portions. After the effective date, the assignor is released and discharged from any obligations thereafter accruing with respect to the assigned lands. Such segregated leases shall continue in full force and effect for the primary term of the original lease or as further extended pursuant to the terms of these rules. (9-3-91)

056. Joint Principal. Where an assignment does not segregate the record title to the lease, the assignee, if the assignment so provides, may become a joint principal on the bond with the assignor. The application must also be accompanied by a consent of assignor's surety to remain bound under the bond of record, if the bond, by its terms, does not contain such consent. If a party to the assignment has previously furnished a statewide bond, no additional showing by such party is necessary as to the bond requirement. (9-3-91)

067. Form of Assignment. An assignment must be a good and sufficient legal instrument, properly executed and acknowledged, and should clearly set forth the serial number of the lease, the land involved, the name and address of the assignee, the interest transferred and the consideration. A fully executed copy of the instrument of assignment must be filed with the application for approval. An assignment must effect or concern only one (1) lease or a portion thereof, except for good cause shown. (9-3-91)

078. Application. The application for approval of an assignment must be on forms provided by the department or exact copies thereof. It must be accompanied by a signed statement by the assignee either (1) that he is the sole party in interest in the assignment, or (2) setting forth the names and qualifications of the other parties taking an interest in the lease. Where the assignee is not the sole party in interest, separate statements must be signed by each of the other parties and by the assignee setting forth the nature and extent of the interest of each party and the nature of the agreement between them. In addition, it shall be declared which party in interest will be the party of record for purpose of receiving all communications and other notices from the lessor. If payments out of production are reserved, a statement must be submitted stating the details as to the amount, method of payment, and other pertinent items. These separate statements must be filed in the office of the department in Boise, not later than fifteen (15) days after the filing of the application for approval. (9-3-91)

089. Denial. Unless the lease account is in good standing at the time the assignment is reached for action, the request for approval of the assignment will be denied, and the lease shall be subject to termination in accordance with these rules. (9-3-91)

076. -- 079. (RESERVED)

080. OVERRIDING ROYALTY INTERESTS.

01. Statements. ~~Overriding royalty interests in geothermal leases constitute accountable acreage holdings under these regulations. If a~~ **An overriding royalty interest, is created which is not shown in the instrument of or any similar interest whereby an agreement is made to pay a percentage based on production, must be disclosed at the time of assignment or transfer; by filing a statement must be filed of such interest with the director Department describing the interest. Any such assignment will be deemed valid if accompanied by a statement over the assignee's**

~~signature that the assignee is a person as defined in these rules and that his interests in geothermal leases do not exceed the acreage limitations provided in these rules. Assignees must meet the requirements of Section 021 of these rules.~~ All assignments of overriding royalty interests without a working interest and otherwise not contemplated by Rule Section 075 of these rules, must be filed ~~for record in the office of with~~ the department ~~in Boise~~ within ninety (90) days from the date of execution. ~~Such interests will not receive formal approval.~~ (9-3-91)()

02. Maximum Amount. No overriding royalty on the production of geothermal resources created by an assignment contemplated by Rule Section 075 of these rules or otherwise ~~shall~~ will exceed five percent (5%) nor ~~shall~~ will an overriding royalty, when added to overriding royalties previously created, exceed five percent (5%). (9-3-91)()

03. Conformance with Rules. The creation of an overriding royalty interest that does not conform to the requirements of this rule shall be deemed a violation of the lease terms, unless the agreement creating overriding royalties provides for a prorated reduction of all overriding royalties so that the aggregate rate of overriding royalties does not exceed five percent (5%). (9-3-91)

04. Director's Authority. In addition to the foregoing limitations, any agreement to create or any assignment creating royalties or payments out of production from the leased lands shall be subject to the authority of the director, after notice and hearing, to require the proper parties thereto to suspend or modify such royalties or payments out of production in such manner as may be reasonable when and during such periods of time as they may constitute an undue economic burden upon the reasonable operations of such lease. (9-3-91)

081. -- 084. (RESERVED)

085. UNIT OR COOPERATIVE PLANS OF DEVELOPMENT OR OPERATION.

01. IDWR Approval. Nothing in this rule will excuse the parties to a unit agreement from procuring the approval of the IDWR pursuant to Section 42-4013, Idaho Code, if approval is required. ()

~~012.~~ **Unit Plan.** For the purpose of conserving the natural resources of any geothermal pool, field or like area, lessees under lease issued by the Board are authorized, with the written consent of the director Department, to commit the state lands to unit, cooperative or other plans of development or operation with other state lands, federal lands, privately-owned lands or Indian lands. Departmental consent will not be unreasonably withheld. Applications to unitize, ~~shall~~ or a copy of the application filed with IDWR, will be filed with the director Department who ~~shall~~ will certify whether such plan is necessary or advisable in the public interest. The director Department may require whatever documents or data he or she deems necessary. To implement such unitization, the Board may with the consent of its lessees modify and change any and all terms of leases issued by it which are committed to such unit, cooperative or other plans of development or operations. (9-3-91)()

023. Contents. The agreement ~~shall~~ must describe the separate tracts comprising the unit, disclose the apportionment of the production of royalties and costs to the several parties, and the name of the operator, and ~~shall~~ must contain adequate provisions for the protection of the interests of all parties, including the state of Idaho. The agreement should be signed by or in behalf of all interested necessary parties before being submitted to the director Department. It will be effective only after approval by the director Department. The unit operator must be a person as defined by these rules and he must be approved by the director Department. (9-3-91)()

~~03.~~ **Interested Parties.** ~~The owners of any rights, title or interest in the geothermal resources to be developed or operated under an agreement can be regarded as proper parties to a proposed agreement. All such owners must be invited to join as parties to the agreement. If any owner fails or refuses to join the agreement, the proponent of the agreement should declare this to the director and should submit evidence of efforts made to obtain joinder of such owner and the reasons for nonjoinder.~~ (9-3-91)

04. Collective Bond. ~~In lieu of separate bonds required for each lease committed to a unit agreement, the unit operator may furnish and maintain a collective corporate surety bond conditioned upon faithful performance of the duties and obligations of the agreement and the terms of the leases subject thereto and these rules. The liability under the bond shall be for such amount as the director shall determine to be adequate to protect the interests of the state of Idaho. Additional bond coverage may be required whenever deemed necessary by the director. In case of~~

changes of unit operator, a new bond must be filed or a consent of surety to the change in principal under the existing bond must be furnished. (9-3-91)()

054. Lease Modification. Any modification of an approved agreement will require approval of the ~~director~~ Department under procedures similar to those cited in Subsection 085.01 *above*, of ~~this~~ these rules. (9-3-91)()

065. Term. The term of all leases included in any cooperative or unit plan of development or operation ~~shall will~~ be extended automatically for the term of such unit or cooperative agreement, but in no event beyond that time provided in Subsection 030.03 1 of these rules. Rentals or royalties on leases so extended ~~shall will~~ be at the rate specified in the lease. (9-3-91)()

076. Continuation of Lease. Any lease which ~~shall will~~ be eliminated from any such cooperative or unit plan of development or operation, or any lease which ~~shall will~~ be in effect at the termination of any such cooperative or unit plan of development or operation, unless relinquished, ~~shall will~~ continue in effect for the term of the lease ~~or for one (1) year after its elimination from the plan or agreement or the termination thereof, whichever is longer, and so long thereafter as lessee engages in diligent and continuous drilling as provided in Subsection 030.02, or so long thereafter as geothermal resources are produced in paying quantities, but in no event beyond the time provided in Subsection 030.03.~~ (9-3-91)()

087. Evidence of Agreement. Before issuance of a lease for lands within an approved unit agreement, the lease applicant or successful bidder will be required to file evidence that he has entered into an agreement with the unit operator for the development and operation of the lands in a lease if issued to him under and pursuant to the terms and provisions of the approved unit agreement, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, he will be permitted to operate independently, but will be required to perform his operations in a manner which the ~~director~~ Department deems to be consistent with the unit operations. (9-3-91)()

098. Department of Water Resources. Nothing in this rule shall excuse the parties to a unit agreement from procuring the approval of the department of water resources pursuant to Section 42-4013, Idaho Code, if approval is required. (9-3-91)

086. -- 089. (RESERVED)

090. PREFERENTIAL RIGHTS UPON DISCOVERY OF UNLEASED MINERALS, OIL, GAS AND OTHER HYDROCARBONS.

Any lessee who ~~shall~~ discovers any minerals or oil, gas or other hydrocarbons on lands leased from the Board for development of geothermal resources ~~shall will~~ have a preference right to a state lease covering such minerals, or oil, gas or other hydrocarbons, provided the unleased minerals at the time of discovery are not included within a mineral location under Section 47-703, Idaho Code, a mineral lease or mineral lease application of another party, and provided that the oil, gas or other hydrocarbons are not under lease or subject to a pending lease application under Section 47-801, Idaho Code. Any preference-right lease ~~shall will~~ be issued upon a lease form in current use by the Board. The preference right ~~shall will~~ continue for a period of sixty (60) days after the discovery of unleased minerals, or oil, gas or other hydrocarbons, provided the lessee must notify the ~~director~~ Department within thirty (30) days after the discovery and must make application to lease the unleased minerals or oil, gas or other hydrocarbons, within sixty (60) days after the date of discovery. Nothing herein ~~shall will~~ require the Board to issue a mineral lease or a lease for oil, gas or other hydrocarbon development. (9-3-91)()

091. -- 094. (RESERVED)

095. SURRENDER, TERMINATION, EXPIRATION OF LEASE.

01. Procedure. A lease, or any surveyed subdivision of the area covered by such lease, may be surrendered by the record title holder by filing a written relinquishment in the office of the department in Boise, on a form furnished by the ~~director~~ Department, provided that a partial relinquishment does not reduce the remaining acreage in the lease to less than forty (40) acres. The minimum acreage provision of this section may be waived by the ~~director~~ Department where he finds such exception is justified on the basis of exploratory and development data

derived from activity on the leasehold. The relinquishment must:

~~(9-3-91)~~()

- a. Describe the lands to be relinquished; (9-3-91)
- b. Include a statement as to whether the relinquished lands had been disturbed and, if so, whether they were restored as prescribed by the terms of the lease; (9-3-91)
- c. State whether wells had been drilled on the lands and, if so, whether they have been plugged and abandoned pursuant to the rules of the ~~department of water resources~~ **IDWR**; and ~~(9-3-91)~~()
- d. Furnish a sworn statement that all monies due and payable to workers employed by the record title holder of the interest on the leased premises have been paid. (9-3-91)

02. Continuing Obligations. A relinquishment shall take effect on the date it is filed, subject to the continued obligation of the lessee and his surety: (9-3-91)

- a. To make payments of all accrued rentals and royalties; (9-3-91)
- b. To place all wells on the land to be relinquished in condition for suspension of operations or abandonment; (9-3-91)
- c. To restore the surface resources in accordance with these rules and the terms of the lease; and (9-3-91)
- d. To comply with all other environmental stipulations provided for by these rules or lease. (9-3-91)

03. Failure to Pay Rental or Royalty. ~~Except as provided in Subsection 095.04 below, any lease may be immediately terminated by the director if the lessee fails to pay the rental on or before the anniversary date of the lease. The director may terminate a lease for failure to pay rentals or royalties thirty (30) days after mailing a notice of delinquent payment.~~ However, if the time for payment falls upon any day in which the office of the department in Boise is not open, payment received on the next official working day ~~shall will~~ be deemed to be timely. The termination of the lease for failure to pay the rental ~~shall will~~ be noted on the official records of the department. Upon termination the lands included in such lease may become subject to leasing as provided by these rules. ~~(9-3-91)~~()

~~**04. Rental Deficiency.** If the rental payment due under a lease is paid on or before its anniversary date, but the amount of the payment is deficient and the deficiency is nominal, the lease shall not be immediately terminated unless the lessee fails to pay the deficiency within the period prescribed in a notice deficiency, or by the due date, whichever is later. A deficiency is nominal if it is not more than ten dollars (\$10) or one percent (1%) of the total payment due, whichever is more. The notice of deficiency shall be sent by certified mail, return receipt requested, and shall allow the lessee twenty (20) days from the date of notice to submit the full balance due. If the payment called for in the notice is not made within the time allowed, the lease will be terminated by the director as of its anniversary date.~~ ~~(9-3-91)~~

054. Termination for Cause. A lease may be terminated by the ~~director~~ **Department** for any violation of these rules, or the lease terms, sixty (60) days after notice of the violation has been given to lessee by personal service or certified mail, return receipt requested, to the address of record last appearing in the files of the department, unless: ~~(9-3-91)~~()

- a. The violation has been corrected; or (9-3-91)
- b. The violation is one that cannot be corrected within the notice period and the lessee has in good faith commenced within the notice period to correct the violation and thereafter proceeds diligently to complete the correction. (9-3-91)

~~**065. Equipment Removal.** Upon the expiration of the lease, or the earlier termination or surrender thereof pursuant to this rule, the lessee shall will have the privilege at any time within a period of ninety (90) days thereafter of removing from the premises any materials, tools, appliances, machinery, structures, and equipment other~~

than improvements needed for producing wells. Any materials, tools, appliances, machinery, structures and equipment subject to removal, but not removed within the ninety (90) day period, or any extension thereof that may be granted because of adverse climatic conditions during that period, ~~shall will~~, at the option of the ~~director~~ Department, become property of the state of Idaho, but the lessee ~~shall must~~ remove any or all such property where so directed by the ~~director~~ Department. (9-3-91)()

076. Surrender After Termination. Upon the expiration or termination of a lease, the lessee ~~shall will~~ quietly and peaceably surrender possession of the premises to the state and deliver to the state a good and sufficient release on a form furnished by the ~~director~~ Department. (9-3-91)()

096. -- 099. (RESERVED)

100. BOND REQUIREMENTS.

01. Minimum Bond. ~~Concurrent with the execution of the lease by the lessee, lessee shall furnish to director a good and sufficient bond in the amount of two thousand dollars (\$2,000) Prior to initiation of operations using motorized earth-moving equipment lessee must furnish a bond. This bond will be~~ in favor of the state of Idaho, conditioned on the payment of all damages to the land surface and all improvements thereon, including without limitation crops on the lands, whether or not the lands under this lease have been sold or leased by the Board for any other purpose; conditioned also upon compliance by lessee of his obligations under this lease and these rules. ~~Prior to initiation of operations to drill a well for any purpose to one thousand (1,000) feet or deeper, lessee shall increase such bond to the amount of ten thousand dollars (\$10,000).~~ The ~~director~~ Department may require a new bond in a greater amount at any time after operations have begun, upon a finding that such action is reasonably necessary to protect state resources. (9-3-91)()

02. Statewide Bond. In lieu of the aforementioned bonds, lessee may furnish a good and sufficient "statewide" bond conditioned as ~~above~~ in Subsection 100.01, ~~the amount of fifty thousand dollars (\$50,000) in favor of the state of Idaho, to~~ This bond will cover all lessee's leases and operations carried on under all geothermal resource leases issued and outstanding to lessee by the Board at any given time during the period when the "statewide" bond is in effect. The amount of such bond will be equal to the total of the requirements of the separate bonds being combined into a single bond. (9-3-91)()

03. Period of Liability. The period of liability of any bond will not be terminated until all lease terms and conditions have been fulfilled and the bond is released in writing by the ~~director~~ Department. (9-3-91)()

04. General Lease Bond. ~~An operator, or, if there is more than one for different portions of the lease, each operator, may furnish a general lease bond of not less than ten thousand dollars (\$10,000) in his own name as principal on the bond in lieu of the lessee. Where there is more than one operator's bond affecting a single lease, each such bond must be conditioned upon compliance with all lease terms for that portion of the leasehold for which each operator is responsible.~~ (9-3-91)

054. Operator Bond. Where a bond is furnished by an operator, suit may be brought thereon without joining the lessee if he is not a party to the bond. (9-3-91)

101. LIABILITY INSURANCE.

01. Liability Insurance Required. The department will require the lessee to purchase and maintain suitable insurance for the duration of the lease ~~P~~ prior to entry upon the leased lands for other than casual exploration or inspection as contemplated by Subsection 0504.01 ~~2 of these rules, lessee shall purchase and maintain, for the duration of the lease, the following liability insurance:~~ (9-3-91)()

~~a. Public Liability Insurance in the form of comprehensive general liability or commercial general liability including the following: (9-3-91)~~

~~i. Blanket contractual; (9-3-91)~~

~~ii. Products and completed operations; (9-3-91)~~

- iii. ~~Premises liability; and~~ (9-3-91)
- iv. ~~Collapse, explosion, underground hazard (for drilling operation one thousand (1,000) feet or deeper).~~ (9-3-91)
- b. ~~Workers' Compensation and Employers' Liability as required by law.~~ (9-3-91)

~~02. **Limits of Liability.** All such coverage required under Subsection 101.01.a.i. above shall have a combined single limit (CSL), by virtue of one or more policies, on a per-occurrence basis, in amounts not less than one million dollars (\$1,000,000).~~ (9-3-91)

~~03. **Additional Requirements.** The state of Idaho, Department of Lands, and the Idaho State Board of Land Commissioners shall be named an additional insured on the insurance required in Subsection 101.01.a.i. above. Additionally, if the land surface and improvements thereon covered by the lease have been sold or leased by the state of Idaho, the owner or lessee of surface rights and improvements shall also be an additional insured.~~ (9-3-91)

~~042. **Insurance Certificate Required.** No work under this lease shall will commence prior to the Department's receipt by the Department of Lands of a certificate, signed by a licensed insurance agent, evidencing existence of insurance as required above. Further, such certificate must reflect that no change of or cancellation in such coverage shall will become effective until thirty (30) days after the Department of Lands has receiveds written notice of such change or cancellation.~~ (9-3-91)(____)

102. INDEMNITY.

Lessee shall will expressly agree to indemnify, defend and save harmless the state of Idaho, state Board of land commissioners, the ~~director~~ Department of the department of lands, the department of lands, and the owner of the surface rights and improvements, if not the state of Idaho, or state lessee of surface rights, if there be one, the officers, agents and employees of each and every of the foregoing, from and against any and all claims, liability, costs, damages, or expenses including any claims, by the federal government or other damages to the environment or for loss, injury, or damage to persons or property including claims of the employees of the lessee or lessee's agent, operator or contractor which may arise out of the activities conducted on the leased premises by the lessee, its agent, operator, contractor, or employees. (9-3-91)(____)

(BREAK IN CONTINUITY OF SECTIONS)

110. IMPOSSIBILITY OF PERFORMANCE.

Whenever, as a result of any cause beyond lessee's control, including without limitation, fire, flood, windstorms, or other act of God; law, order or regulation of any governmental agency, or inability to secure men, material or transportation, it becomes impossible for lessee to perform or to comply with any obligation under a lease other than payment of rentals, the ~~director~~ Department may by written order excuse lessee from damages or forfeiture of the lease and lessee's obligations shall will be suspended so long as the ~~director~~ Department finds that good cause exists; provided, however, that nothing herein shall will extend the term of the lease. (9-3-91)(____)

(BREAK IN CONTINUITY OF SECTIONS)

~~114. **RIGHT OF CANCELLATION BY THE BOARD.**~~

~~The Board reserves the right to cancel any geothermal resources lease upon failure by the lessee to exercise due diligence or care in the prosecution of his operations or upon failure by lessee to comply with the terms and conditions stated in the lease and with all laws of the state of Idaho, including without limitation these rules.~~ (9-3-91)

~~115. **AMENDMENTS.**~~

~~These rules may be amended, altered, changed, modified or repealed at any time by action of the Board, pursuant to~~

~~the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code; provided, however, any amendment to these rules changing the rental or royalty due the state of Idaho or the term of geothermal resource leases shall not adversely affect leases outstanding upon the effective date of the amendment. (9-3-91)~~

~~1164.~~ -- 119. (RESERVED)

120. FEES.

The following fees shall apply: (9-3-91)

01. Non-Refundable Application Fee for Lease. ~~Twenty five~~ **Two hundred fifty** dollars (\$~~250~~) per application. ~~(9-3-91)~~()

02. Application Fee for Approval of Assignment. ~~Twenty~~ **One hundred fifty** dollars (\$~~2150~~) per lease involved in the assignment. ~~(9-3-91)~~()

03. Late Payment Fee. The greater of the following: (9-3-91)

a. Twenty-five dollars (\$25); or (9-3-91)

b. One percent (1%) per month (or portion thereof) on the unpaid balance. (9-3-91)

IDAPA 20 - DEPARTMENT OF LANDS

20.07.02 - RULES GOVERNING OIL AND GAS CONSERVATION IN THE STATE OF IDAHO

DOCKET NO. 20-0702-1102

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 47-317(b), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

Wednesday, October 12, 2011, 7:00 pm – 9:00 pm

**Capitol Building, Room WW55
Boise, ID**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule format is revised to conform with Section 67-52, Idaho Code, and IDAPA 44.01.01, "Rules of the Administrative Rules Coordinator." Definitions are changed for consistency and clarity. Well drilling permit requirements are expanded to ensure that the Department has the information needed to properly review them. A public comment period on applications is added. Application, operating, and reporting requirements for well treatments, including hydraulic fracturing, are added. Bond amounts are increased and additional bonding requirements are added to decrease the potential well plugging liabilities present in other states. Basic surface owner protections are added, and geophysical exploration requirements are expanded, to reduce conflicts between surface and mineral owners and thereby enhance orderly development of oil and gas resources. Well drilling and plugging rules are modified to better prevent waste and protect fresh waters. Comprehensive pit requirements and surface reclamation standards are added to protect fresh waters. Well completion and well log reporting is clarified to improve the flow of information and stimulate additional exploration. Active and inactive wells are defined to reduce the potential liability of abandoned wells. The periodic testing of well integrity is added to prevent waste and protect fresh waters. Class II injection wells are no longer permitted under this rule as the Idaho Department of Water Resources currently prohibits their use in IDAPA 37.03.03 and they will pursue permitting authority with the Environmental Protection Agency. Basic emergency response requirements were added to ensure that accidents and fires are handled appropriately and public safety issues are addressed. Other sections of the rules addressing wellhead equipment, tools with radioactive material, the pulling of casing, gas-oil ratios, and multiple zone completions were upgraded or added based on the existing standards used in other states to prevent waste, protect correlative rights, and protect fresh water supplies. Responsibilities of the Department and the Oil and Gas Conservation Commission are clarified. Multiple documents are incorporated by reference to allow the industry standards to be adopted in Idaho.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the [July 6, 2011 Idaho Administrative Bulletin, Volume 11-7, page 133](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The following documents are being incorporated by reference into these rules to give them the force and effect of law. The documents are not being published in this chapter of rules due to the cost of republication.

API Bulletin E3, Well Abandonment and Inactive Well Practices for U.S. Exploration and Production Operations, Environmental Guidance Document. 1st Edition, January 1993 and Reaffirmed June 2000.

API SPEC 5CT, Specifications for Casing and Tubing. The 8th edition dated 7/1/05 and amendments dated 3/31/06 and 4/7/06.

API SPEC 10a, Specification for Cements and Materials for Well Cementing. The 24th Edition dated December, 2010.

ASTM D698-07e1, Standard Test Methods For Laboratory Compaction Characteristics Of Soil Using Standard Effort (12,400 ft-lbf/ft³ (600 kN-m/m³)). 2007 revision.

ASTM D1250-08, Standard Guide For Use Of The Petroleum Measurement Tables. 2008 revision.

ASTM D1557-09, Standard Test Methods For Laboratory Compaction Characteristics Of Soil Using Modified Effort (56,000 ft-lbf/ft³ (2,700 kN-m/m³)). 2009 revision.

EPA SW-846 Method 9090A, Compatibility Test For Wastes And Membrane Liners. Revision 1, July 1992.

OSHA Standard 1910.1200 (Hazard Communication). Last revised 1996.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Eric Wilson, Minerals Program Manager, at (208) 334-0261 or ewilson@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2011.

DATED this 29th day of August, 2011.

Eric Wilson, Minerals Program Manager
Idaho Department of Lands
300 N 6th Street, Suite 103
Boise, ID 83720
(208) 334-0261
Fax (208) 334-3698

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 20-0702-1102

000. ~~(RESERVED)~~ LEGAL AUTHORITY.

This Chapter is adopted under the legal authorities of Title 58, Chapter 1, Sections 58-104(6), 58-105, and 58-127, Idaho Code; Title 47, Chapter 3, Idaho Code; and Title 67, Chapter 52, Idaho Code. ()

001. TITLE AND SCOPE.

~~General rules shall be statewide in application unless otherwise specifically stated. These rules set forth the policy and procedures for the conservation of crude oil and gas.~~ (10-21-92)

01. Title. These rules shall be cited as IDAPA 20.07.02, "Rules Governing Oil and Gas Conservation

in the State of Idaho.” ()

02. Scope. These rules apply to the exploration and extraction of any and all crude oil and natural gas resources in the state of Idaho, not including biogas, manufactured gas, or landfill gas, regardless of ownership. ()

03. Other Laws. Owners or operators engaged in the exploration and extraction of crude oil and natural gas resources shall comply with all applicable laws and rules of the State of Idaho including, but not limited to the following: ()

a. Idaho water quality standards and waste water treatment requirements established in Title 39, Chapter 1, Idaho Code; IDAPA 58.01.02, “Water Quality Standards”; IDAPA 58.01.16, “Wastewater Rules”; and IDAPA 58.01.11, “Ground Water Quality Rule” administered by the IDEQ. ()

b. Idaho air quality standards established in Title 39, Chapter 1, Idaho Code and IDAPA 58.01.01 “Rules for the Control of Air Pollution in Idaho” administered by the IDEQ. ()

c. Requirements and procedures for hazardous and solid waste management, as established in Title 39, Chapter 44, Idaho Code, and rules promulgated thereunder including IDAPA 58.01.05, “Rules and Standards for Hazardous Waste”; IDAPA 58.01.06, “Solid Waste Management Rules”; and IDAPA 58.01.10, “Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended”, administered by the IDEQ. ()

d. Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and rules promulgated thereunder including IDAPA 37.03.07, “Stream Channel Alteration Rules” administered by the IDWR. ()

e. Injection Well Act, Title 42, Chapter 39, Idaho Code and rules promulgated thereunder including IDAPA 37.03.03, “Rules and Minimum Standards for the Construction and Use of Injection Wells” administered by the IDWR. ()

f. Department of Water Resources – Water Resource Board Act, Title 42, Chapter 17, Idaho Code and rules promulgated thereunder including IDAPA 37.03.06, “Safety of Dams Rules” administered by the IDWR. ()

002. WRITTEN INTERPRETATIONS.

The Idaho Department of Lands maintains written interpretations of its rules which may include, but may not be limited to, written procedures manuals and operations manuals and other written guidance which pertain to the interpretation of the rules of this chapter. Copies of the procedures manuals and operations manuals and other written interpretations, if applicable, are available for public inspection and copying at the director’s office of the Idaho Department of Lands, 300 North 6th Street, Suite 103, Boise, Idaho. ()

003. ADMINISTRATIVE APPEALS.

Any person aggrieved by any final decision or order of the Commission shall be entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, IDAPA 20.01.01, Title 47, Chapter 3, Idaho Code, and IDAPA 20.07.01, “Rules of Practice and Procedure before the Idaho Oil and Gas Conservation Commission.” ()

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: ()

01. API Bulletin E3, Well Abandonment and Inactive Well Practices for U.S. Exploration and Production Operations, Environmental Guidance Document. 1st Edition, January 1993 and Reaffirmed June 2000 available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. ()

02. API SPEC 5CT, Specifications for Casing and Tubing. The 8th edition dated July, 1, 2005 and the amendments dated March, 31, 2006 and April, 7, 2006 are available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. ()

03. API SPEC 10a, Specification for Cements and Materials for Well Cementing. The 24th Edition dated December, 2010 is available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. ()

04. ASTM D698-07e1, Standard Test Methods For Laboratory Compaction Characteristics Of Soil Using Standard Effort (12,400 ft-lbf/ft³ (600 kN-m/m³)). 2007 revision. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. ()

05. ASTM D1250-08, Standard Guide For Use Of The Petroleum Measurement Tables. 2008 revision. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. ()

06. ASTM D1557-09, Standard Test Methods For Laboratory Compaction Characteristics Of Soil Using Modified Effort (56,000 ft-lbf/ft³ (2,700 kN-m/m³)). 2009 revision. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. ()

07. EPA SW-846 Method 9090A, Compatibility Test For Wastes And Membrane Liners. Revision 1, July 1992. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103 and this website: <http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/9090a.pdf>. ()

08. OSHA Standard 1910.1200 (Hazard Communication). Last revised 1996. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103 and this website: http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=standards&p_id=10099. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The principal place of business of the Idaho Department of Lands is 300 North 6th Street, Suite 103, Boise, Idaho and it is open from 8 a.m. To 5 p.m., Monday through Friday, except legal holidays. The mailing address is: Idaho Department of Lands, P.O. Box 83720, Boise, Idaho 83720-0050. The telephone number of the office is (208) 334-0200 and the fax number is (208) 334-2339. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

01. Promulgation. The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

02. Confidentiality. Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 9, Chapter 3, Idaho Code. Upon request in any application or material submitted to the Department, confidentiality protection shall be provided for trade secrets consistent with Section 9-340D(1), Idaho Code, and for "archaeological and geologic records concerning exploratory drilling, logging, mining and other excavation" consistent with Idaho Code § 9-340E(2). Only those parts of an application or other materials that fall under these provisions of Idaho Code § 9-340 can be held as confidential. The owner or operator shall not unreasonably designate other parts of their application or other materials as confidential. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

Unless the context otherwise requires, the words defined shall have the following meaning when found in these rules: (10-21-92)

01. Act. The Idaho Oil and Gas Conservation Act, Idaho Code, Title 47, Chapter 3. (10-21-92)

02. Active Well. A permitted well used for production, disposal, or injection that is not idled for more than twenty-four (24) continuous months. ()

023. Barrel. Forty-two (42) U. S. gallons at sixty (60) Degrees F at atmospheric pressure. (10-21-92)

034. Blowout. An unplanned sudden or violent escape of oil or natural gas, as fluids from a drilling well when high formational pressure is encountered. (10-21-92)()

045. **Blowout Preventer.** A *heavy* casinghead control equipped with special gates or rams which can be closed around the drill pipe, or which completely closes the top of the casing. (10-21-92)()

056. **Casing Pressure.** The pressure *built up within the casing or* between the casing, *and tubing, when the casing and tubing are packed off at the top of the well* or drill pipe. (10-21-92)()

07. **Casinghead.** A metal flange attached to the top of the conductor pipe that is the primary interface for the diverter system during drilling out for surface casing. ()

068. **Casinghead Gas.** Any gas or vapor, or both *gas and vapor*, indigenous to an oil stratum and produced from such stratum with oil. (10-21-92)()

079. **Commission.** The Oil and Gas Conservation Commission of the state of Idaho. (10-21-92)

0810. **Common Source of Supply.** *Synonymous with pool.* The geographical area or horizon definitely separated from any other such area or horizon and which contains, or from competent evidence appears to contain, a common accumulation of oil or gas or both. Any oil or gas field or part thereof which comprises and includes any area which is underlaid, or which from geological or other scientific data or experiments or from drilling operations or other evidence appears to be underlaid by a common pool or accumulation of oil or gas or both oil and gas. (10-21-92)

09. **Condensate.** *Liquid hydrocarbons that were originally in the gaseous phase in the reservoir.* (10-21-92)

11. **Completion.** An oil well shall be considered completed when the first new oil is produced through wellhead equipment into lease tanks from the ultimate producing interval after the production casing has been run. A gas well shall be considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the production casing has been run. ()

12. **Conductor Pipe.** The first and largest diameter string of casing to be installed in a well. This casing extends from land surface to a depth great enough to keep surface waters from entering and loose earth from falling in the hole and to provide anchorage for the diverter system prior to setting surface casing. ()

103. **Cubic Foot of Gas.** The volume of gas contained in one (1) cubic foot of space at a standard pressure base and a standard temperature base. The standard pressure base shall be fourteen *point* and seventy-three hundredths (14.73) pounds per square inch absolute and the standard temperature base shall be sixty (60) Degrees F. (10-21-92)()

14. **Day.** A period of twenty-four (24) consecutive hours from eight (8) a.m. one day to eight (8) a.m. the following day. (10-21-92)()

15. **Department.** The Idaho Department of Lands or its designee. ()

126. **Development.** Any work which actively promotes bringing in production. (10-21-92)

13. **Developed Area.** *A spacing unit on which a well has been completed that is capable of producing oil or gas, or the acreage that is otherwise attributed to a well by the Commission.* (10-21-92)

147. **Director.** The *Director* head of the Idaho Department of Lands and secretary to the Oil and Gas Conservation Commission, or their designee. (10-21-92)()

18. **Drilling Logs.** The recorded description of the lithologic sequence encountered in drilling a well, and any electric, gamma ray, geophysical, or other logging done in the hole. ()

159. **Field.** The general area underlaid by one (1) or more pools. (10-21-92)

~~16. Gas. All natural gas and all other fluid hydrocarbons not herein below defined as oil, including condensate because it originally was in the gaseous phase in the reservoir. (10-21-92)~~

20. Fresh Water. All surface waters and those ground waters that are used, or may be used in the future, for drinking water, agriculture, aquaculture, or industrial purposes other than oil and gas development. The possibility of future use is based on hydrogeologic conditions, water quality, future land use activities, and social/economic considerations. ()

~~1721. Gas-Oil Ratio. The volume of gas produced in standard cubic feet to each ~~stock tank~~ barrel of oil or condensate produced concurrently during any stated period. (10-21-92)()~~

~~1822. Gas Well. (10-21-92)~~

a. A well which produces primarily natural gas ~~only~~; (10-21-92)()

b. Any well capable of producing gas in commercial quantities and also producing oil from the same common source of supply but not in commercial quantities; or (10-21-92)

c. Any well classed as a gas well by the Commission for any reason. (10-21-92)

~~19. Just and Equitable Share of the Production. As to each person, that part of the production from the pool that is substantially in the proportion that the amount of recoverable oil or gas or both in the developed area of the person's tract(s) in the pool bears to the recoverable oil or gas or both in the total of the developed areas in the pool. (10-21-92)~~

23. Geophysical or Seismic Operations. Any geophysical method performed on the surface of the land utilizing certain instruments operating under the laws of physics respecting vibration or sound to determine conditions below the surface of the earth which may contain oil or gas and is inclusive of but not limited to the preliminary line survey, the acquisition of necessary permits, the selection and marking of shot-hole locations, necessary clearing of vegetation, shot-hole drilling, implantation of charge, placement of geophones, detonation and backfill of shot-holes, and vibroseis. ()

24. Hydraulic Fracturing, or Fracing. A method of stimulating or increasing the recovery of hydrocarbons by perforating the production casing and injecting fluids or gels into the potential target reservoir at pressures greater than the existing fracture gradient in the target reservoir. ()

25. Inactive Well. An unplugged well that has no reported production, disposal, injection, or other permitted activity for a period of greater than twenty-four (24) continuous months, and for which no extension has been granted. ()

26. Intermediate Casing. The casing installed within the well to seal intermediate zones above the anticipated bottom hole depth. The casing is generally set in place after the surface casing and before the production casing. ()

27. Junk. Debris in a hole that impedes drilling or completion. ()

~~208. Lease. A tract(s) of land which by virtue of an oil and gas lease, fee or mineral ownership, a drilling, pooling or other agreement, a rule, regulation or order of a governmental authority, or otherwise constitutes a single tract or leasehold estate for the purpose of the development or operation thereof for oil or gas or both. (10-21-92)~~

~~21. Oil. Crude petroleum oil and all other hydrocarbons, regardless of gravity, that are produced in liquid form by ordinary production methods but does not include liquid hydrocarbons that were originally in a gaseous phase in the reservoir. (10-21-92)~~

29. Mechanical Integrity Test. A test designed to determine if there is a significant leak in the casing, tubing, or packer of a well. ()

- ~~22~~**30.** **Oil and Gas.** Oil or gas or both. (10-21-92)
- ~~23~~**1.** **Oil Well.** Any well capable of primarily producing oil in paying quantities, but not a gas well. ~~(10-21-92)~~()
- ~~24~~**32.** **Operator.** Any duly authorized person who is in charge of the development of a lease or the operation of a producing well. (10-21-92)
- ~~25~~**33.** **Owner.** The person who has the right to drill into and produce from a pool and to appropriate the oil or gas that produces there from either for himself and/or others. (10-21-92)
- ~~26~~**34.** **Person.** Any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any government or any political subdivision or any agency thereof. The masculine gender, in referring to a person, includes the feminine and the neuter gender. (10-21-92)
- ~~35.~~ **Pit.** Any excavated or constructed depression or reservoir used to contain reserve, drilling, well treatment, produced water, or other fluids at the drill site. This does not include enclosed, mobile, or portable tanks used to contain fluids. ()
- ~~36.~~ **Pollution.** Constituents of oil, gas, salt water, or other materials used in oil and gas extraction, occurring in fresh water supplies at levels that exceed the standards in IDAPA 58.01.02, "Water Quality Standards," and IDAPA 58.01.11, "Ground Water Quality Rules" as the result of the drilling, casing, treating, operation or plugging of wells. ()
- ~~23~~**7.** **Pool or Reservoir.** An underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure that is completely separated from any other zone in the same structure is a pool. ~~(10-21-92)~~()
- ~~23~~**8.** **Pressure Maintenance.** The injection of gas, water, or other fluids into oil or gas reservoirs to maintain pressure or retard pressure decline in the reservoir for the purpose of increasing the recovery of oil or other hydrocarbons therefrom. (10-21-92)
- ~~39.~~ **Produced Water.** Water that is produced along with oil or gas. ()
- ~~29~~**40.** **Producer.** The owner of a well(s) capable of producing oil or gas or both. (10-21-92)
- ~~41.~~ **Production Casing.** The casing set across the reservoir interval and within which the primary completion components are installed. ()
- ~~30.~~ **Protect Correlative Rights.** ~~The action or regulation by the Commission should afford a reasonable opportunity to each person entitled thereto to recover or receive the oil or gas in such person's tract(s) or the equivalent thereof, without being required to drill unnecessary wells or to incur other unnecessary expense to recover or receive such oil or gas or its equivalent.~~ ~~(10-21-92)~~
- ~~42.~~ **Proppant.** Sand or other materials used in hydraulic fracturing to prop open fractures. ()
- ~~43.~~ **Release.** Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. ()
- ~~44.~~ **Surface Casing.** The first casing which is run after the conductor pipe to anchor blow out prevention equipment and to seal out fresh water zones. ()
- ~~45.~~ **Tubing.** Pipe used inside the production casing to convey oil or gas from the producing interval to the surface. ()

46. Volatile Organic Compound. Organic chemical compounds whose composition makes it possible for them to evaporate under normal indoor atmospheric conditions of sixty-eight (68) degrees F and an absolute pressure of fourteen point seven (14.7) psi atmospheric. ()

347. Waterflooding. The injection into a reservoir through one (1) or ~~several~~ more wells of with volumes of water for the purpose of increasing the recovery of oil therefrom. (+10-21-92)()

348. Waste as Applied to Oil. Underground waste; inefficient, excessive, improper use, or dissipation of reservoir energy, including gas energy and water drive; surface waste, open-pit storage, and waste incident to the production of oil in excess of the producer's above-ground storage facilities and lease and contractual requirements, but excluding storage (other than open-pit storage) reasonably necessary for building up and maintaining crude stocks and products thereof for consumption, use, and sale; the locating, drilling, equipping, operating, or producing of any well in a manner that causes, or tends to cause, reduction of the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations. (10-21-92)

349. Waste as Applied to Gas. The escape, blowing or releasing, directly or indirectly, into the open air of gas from wells productive of gas only, or gas in an excessive or unreasonable amount from wells producing oil or both oil and gas; and the production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil or gas that might ultimately be produced; excepting gas that is reasonably necessary in the drilling, completing, and testing of wells and in furnishing power for the production of wells (10-21-92)

350. Well Log Report. The written record progressively describing the strata, water, oil, or gas encountered in drilling a well with such additional information as to give volumes, pressures, rate of fill-up, water depths, casing strata, casing record, etc., as is usually recorded in normal procedure of drilling; also, it includes electrical radioactivity, or other similar logs run, lithologic description of all cores, and all drill-stem tests, including depth-tested, cushion-used, time tool open, flowing and shut-in pressures and recoveries. (+10-21-92)()

51. Well Treatment. Actions performed on a well to acidize, fracture, or stimulate the target reservoir. ()

352. Wildcat Well. An exploratory well drilled ~~to discover a previously unknown pool in an area of~~ unknown subsurface conditions. (+10-21-92)()

011. ABBREVIATIONS.

- 01. API.** American Petroleum Institute. ()
- 02. ASTM.** American Society for Testing and Materials. ()
- 03. BOP.** Blowout Preventer. ()
- 04. CAS.** Chemical Abstracts Service. ()
- 05. EPA.** United States Environmental Protection Agency. ()
- 06. F.** Fahrenheit. ()
- 07. GPS.** Global Positioning System. ()
- 08. HDPE.** High Density Polyethylene. ()
- 09. IDAPA.** Idaho Administrative Procedure Act. ()
- 10. IDEQ.** Idaho Department of Environmental Quality. ()
- 11. IDWR.** Idaho Department of Water Resources. ()

12. MSDS. Material Safety Data Sheet. ()

13. OSHA. Occupational Safety & Health Administration. ()

14. PSI. Pounds per Square Inch. ()

~~014.~~ -- 014. (RESERVED)

015. ~~SPECIAL RULES~~ PROTECTION OF CORRELATIVE RIGHTS.

~~Special rules will be issued when required and shall prevail as against general rules if in conflict therewith. The Commission and the Department should afford a reasonable opportunity to each person entitled thereto to recover or receive the oil or gas in such person's tract(s) or the equivalent thereof, without being required to drill unnecessary wells or to incur other unnecessary expense to recover or receive such oil or gas or its equivalent.~~ (10-21-92)()

016. -- ~~03~~19. (RESERVED)

020. APPLICABILITY.

01. Oil and Gas Development. These rules apply to oil and gas development and carry out the Commission's duty to prevent waste, protect correlative rights, and prevent pollution of fresh water supplies through activities authorized by these rules. ()

02. Exclusions. These rules do not apply to the exploration and development of other mineral resources covered by Title 47, Chapter 13, Idaho Code; Title 47, Chapter 15, Idaho Code; or Title 42, Chapter 40, Idaho Code. ()

~~021.~~ -- ~~039.~~ (RESERVED)

040. NOTICES - GENERAL.

01. Written Authorization Required. Any written notice of intention to do work or to change plans previously approved must be filed with the ~~director~~ Department, unless otherwise directed, and must ~~reach the director and receive his approval~~ be approved before the work is begun. Such approval may be given orally and, if so given, shall thereafter be confirmed by the ~~director~~ Department in writing. (10-21-92)()

02. Emergency Authorization. In case of emergency, or a situation where operations might be unduly delayed, any written notice required by these rules and regulations to be given the ~~director~~ Department may be given orally or by wire and if approval is obtained, the transaction shall be confirmed in writing, as a matter of record. (10-21-92)()

041. -- 049. (RESERVED)

050. PERMIT TO DRILL, DEEPEN, OR PLUG BACK.

01. Permits Required. Prior to the commencement of operations to drill, deepen, or plug back to any source of supply other than the existing producing horizon, application shall be delivered to the ~~Commission~~ Department of intention to drill, deepen, or plug back any well for oil or gas, and approval obtained. (10-21-92)()

02. Fees. An ~~one hundred dollar (\$100) service~~ application fee must accompany each application for permit to drill, deepen, or plug back ~~for any well on which the service fee has not been paid~~. No service fee is required for a permit to deepen or plug back in a well for which the fee has been paid for permit to drill unless the drilling permit has expired. (10-21-92)()

03. Time Required to Commence Operations; Term of Permit. On the first anniversary of the date of issuance of a permit to drill, deepen, or plug back, said permit ~~shall terminate~~ will expire and be of no further force

or effect, unless the work for which the permit was issued has been started. Prior to the anniversary date, the owner or operator may apply for a one-time six (6) month extension if work has not started. If conditions have not changed, and no changes to the permit are requested, the extension may be approved by the Department. If a permit expires due to the failure to commence operations, then reapplication is required prior to commencing operations. ~~(10-21-92)~~()

04. Plat Application. The Application for Permit to Drill shall ~~be accompanied by an~~ include a Department approved form and the following:

a. An accurate plat showing the location of the proposed well with reference to the nearest lines of an established public survey.

b. The location of the nearest structure with a water supply, or the nearest water well as shown on the IDWR registry of water rights or well log database. ()

c. Information ~~to be included in such notice shall be~~ on the type of tools to be used; and the proposed logging program. ()

d. ~~Proposed~~ total depth to which the well will be drilled, estimated depth to the top of the important geologic markers, and the estimated depth to the top of ~~objective horizons;~~ the target formations. ()

e. ~~The~~ proposed casing program, including size and weight thereof, the depth at which each casing string type is to be set; ~~and~~

f. ~~The~~ type and amount of cement to be used, and the intervals cemented. ()

g. Information ~~shall also be given relative to~~ on the drilling plan; ~~together with~~

h. Best management practices to be used for erosion and sediment control. ()

i. Plan for interim reclamation of the drill site after the well is completed, and a plan for final reclamation of the drill site following plugging and abandonment of the well. These plans must contain the information needed to implement reclamation as described in Subsection 080.15 and Section 325 of these rules. ()

j. Applications that include the following actions must also provide the information from the respective Section of these rules: ()

i. Well treatments require the submittal of the information in Section 055. ()

ii. Pit construction and use requires the submittal of the information in Section 085. ()

iii. Directional or horizontal drilling requires the submittal of the information in Section 170. ()

k. ~~Any~~ other information which may be required by the ~~Commission~~ Department based on site specific reasons. ~~(10-21-92)~~()

05. Permit Denial. Applications may be denied for the following reasons: ()

a. Application fee was not submitted. ()

b. Application is incomplete. ()

c. Failure to post required bonds. ()

d. Proposed well will result in a waste of oil or gas, a violation of correlative rights, or the pollution of

fresh water supplies. ()

051. PUBLIC COMMENT.

Applications submitted under Sections 050, 055, 085, and 170 of these rules will be posted on the Department's website for a fifteen (15) day written comment period. The purpose of the comment period is to receive written comments on whether a proposed application complies with these rules. These comments will be considered by the Department prior to permit approval or denial. Relevant comments will be posted on the Department's website following the comment period. ()

05~~2~~. -- 05~~4~~. (RESERVED)

055. WELL TREATMENTS.

01. Application Required. An Application for Permit to Drill required by Section 050 must include any plans for well treatment if they are known before the well is drilled. If well treatments are not covered in the original drilling permit, then an application to amend the permit must be made to the Department with an application fee. Approval by the Department is required prior to the well treatments being implemented. Actions to clean the casing or perforations not in excess of pressures sufficient to overcome the fracture gradient in the surrounding formation are not considered to be well treatments, but a notice to the Department as described in Section 350 of these rules is still required. Applications for well treatments must include the permit number, well name, well location, as-built description if drilling has been completed, and the following: ()

- a.** Depth to perforations or the openhole interval; ()
- b.** The source of water or type of base fluid; ()
- c.** Additives, meaning any substance or any combination of substances including proppant, having a specified purpose that is combined with base treatment fluid by trade name, if available, and MSDS for each additive; ()
- d.** Type of proppant(s); ()
- e.** Anticipated percentages by volume and total volumes of base treatment fluid, individual additives, and proppant(s); ()
- f.** Estimated pump pressures; ()
- g.** Method and timeline for the management, storage, and disposal of well treatment fluids, including anticipated disposal site of treatment fluids or plans for reuse; ()
- h.** Size and design of storage pits, if proposed, in conformance with Section 085 of these rules; ()
- i.** Information specific to hydraulic fracturing as described in Section 056 of these rules; ()
- j.** Summary identifying all water bearing zones from the surface down to the bottom of the well; ()
- k.** Fresh water protection plan that describes the proposed site specific measures to protect water quality from activities associated with well treatments. The Department will review this plan in consultation with the IDEQ. The Fresh Water Protection Plan shall include the following information: ()
 - i.** Ground water and storm water best management practices; ()
 - ii.** Statement certifying that the owner or operator is complying with Spill Prevention, Control, and Countermeasures (SPCC) requirements administered by the EPA; ()

iii. A preconstruction topographic site map or aerial photos identifying all habitable structures, wells, perennial and intermittent springs, surface waters, and irrigation ditches within one-quarter (1/4) mile of the oil or gas well. The distance or location may be changed based on site specific factors such as horizontal drilling, the expected length of fractures, or lack of suitable water sample locations within one-quarter (1/4) mile; ()

iv. A brief description of the structural geology that may influence ground water flow and direction;
and ()

v. The general hydrogeological characteristics of the treatment area and surrounding land. ()

l. Certification by the owner or operator that all aspects of the well construction, including the suitability and integrity of the cement used to seal the well, are designed to meet the requirements of proposed well treatments; ()

m. Affidavit signed by the owner or operator stating that all home owners and water well owners within one-quarter (1/4) mile of the oil or gas well, and all owners of a public drinking water system that have a IDEQ recognized source water assessment or protection area within one-quarter (1/4) mile of the oil or gas well, have been notified of the proposed treatment. If a well deviates from the vertical, these surface distances will be from the entire length of the wellbore from the surface to total depth. The notification will also offer an opportunity to have the owner or operator sample and test the water, at the owner or operator's cost, prior to and after the oil or gas well being treated. Notification shall be by certified mail to the surface owner as identified by the county assessor's records, or to the well owner as identified on the IDWR registry of water rights or well log database; ()

n. Proof of publication in a newspaper of general circulation in the county where the well is located of a legal notice briefly describing the well treatment to be performed. Notice shall also advise all water well or public drinking water system owners, as described in paragraph 055.01.m. of these rules, of the opportunity to have their water tested at the owner's or operator's cost before and after the well treatment; and ()

o. Additional information as required by the Department. ()

02. Master Drilling/Treatment Plans. Where multiple stimulation activities will be undertaken for several wells proposed to be drilled in the same field within an area of geologic similarity, approval may be sought from the Department for a comprehensive master drilling/treatment plan containing the information required. The approved master drilling/treatment plan must then be referenced on each individual well's Application for Permit to Drill. ()

03. Application Denial. The Department may deny well treatment applications for one or more of the following reasons: ()

a. Application does not contain the information in Subsection 055.01 of these rules; ()

b. Application fee was not submitted. ()

c. Proposed treatment will result in a waste of oil or gas, a violation of correlative rights, or the pollution of fresh water supplies. ()

04. Time Limit. If a treatment approved in a drilling permit or amended drilling permit is not started within one (1) year of the approval of the well treatment, the well treatment permit will expire and reapplication will be required prior to conducting the well treatment. Prior to the anniversary date, the owner or operator may apply for a six (6) month extension. If conditions have not changed, and no changes to the permit are requested, the extension may be approved by the Department. ()

05. Inspections. The Department may conduct inspections prior, during, and after well treatments. ()

06. Reporting Requirements. A report on the well treatment must be submitted within thirty (30) days of the treatment. The report shall present a detailed account of the work done and the manner in which such work was

performed, including: ()

a. The daily production of oil, gas, and water both prior to and after the operation. ()

b. The size and depth of perforations. ()

c. Percentages by volume and total volumes of base treatment fluid, individual additives, and proppant(s). This requirement can be met by the submittal of well completion field tickets if they contain this information. ()

d. Information specific to hydraulic fracturing, as described in Section 056 of these rules. ()

e. Static pressure testing results before and after the well treatment. ()

f. The amounts, handling, and if necessary, disposal at an identified appropriate disposal facility, or reuse of the well stimulation fluid load recovered during flow back, swabbing, and/or recovery from production facility vessels. Reporting of recovered fluids shall be included with other monthly production reports required by the Department. Storage of such fluid shall be protective of ground water as demonstrated by the use of either tanks or authorized lined pits as described in Section 085 of these rules. ()

g. Any other information related to operations which alter the performance or characteristics of the well. ()

07. Fresh Water Protections for Well Treatments. ()

a. The Department will not authorize pits, lagoons, ponds, or other methods of subsurface storage for treatment fluids within IDEQ recognized source water assessment or protection areas for public drinking water systems. Owners or operators must store and transport treatment fluids using above ground storage facilities and tanker trucks for well treatments in these locations. ()

b. The Department will not authorize well treatments to create fractures within five hundred (500) vertical feet below fresh water aquifers within one-quarter (1/4) horizontal mile of the treated well. ()

c. The Department shall require the owner or operator to complete fresh water monitoring at the owner's or operator's cost before and after a well treatment unless the Department, in consultation with the IDEQ, determines that the proposed treatment does not pose a threat of pollution to fresh waters. The Department will review and approve all monitoring proposals with the IDEQ. The monitoring will be done using representative existing water wells or surface waters within one-quarter (1/4) horizontal mile of the treated well. For wells that deviate from the vertical, sampling may be required within one-quarter (1/4) horizontal mile of the wellbore's projected location on the surface. If no water wells or surface waters are present in this area, the sampling area may be enlarged as needed with approval by the Department. If the Department determines that existing water wells are not representative of the ground waters that could be impacted, then the Department may require the owner or operator to install one (1) or more ground water monitoring wells at the owner's or operator's cost. The owner or operator must obtain consent from appropriate property owners to gain access prior to any sampling or well construction. When monitoring is required by the Department, the operator will prepare a monitoring plan that includes the following: ()

i. Location of proposed monitoring sites; ()

ii. Construction details of any sampled or constructed wells including total well depth, depth of screened interval(s), screen size, and drilling log. For existing wells, the operator must make every reasonable attempt to locate this information; ()

iii. When possible, data from the existing wells collected within the last five (5) years and analyzed in a state or EPA certified drinking water lab; ()

iv. List of proposed analytes, testing methods, and their detection limits; ()

- v. Additional tests such as stable isotopic analysis; and ()
- vi. Pre-treatment sampling and analysis when no relevant data exists, and a schedule for post-treatment sampling and analysis. ()
- d. The owner or operator will provide the Department with copies of any analysis or reports within thirty (30) days of samples being taken. All samples must be analyzed in a state or EPA certified drinking water lab. ()
- e. Pollution of fresh water supplies due to a well treatment is a violation of these rules and Title 47, Chapter 3, Idaho Code. ()

056. HYDRAULIC FRACTURING.

01. Application Requirements. In addition to the information required by Subsection 055.01 of this rule, the owner or operator shall provide the following application information: ()

- a. The geological names and descriptions of the formation into which well stimulation fluids are to be injected; ()
- b. Detailed information on the base stimulation fluid source. For each stage of the well stimulation program, provide the chemical additives and proppants and concentrations or rates proposed to be mixed and injected, including: ()
 - i. Stimulation fluid identified by additive type (such as but not limited to acid, biocide, breaker, brine, corrosion inhibitor, crosslinker, demulsifier, friction reducer, gel, iron control, oxygen scavenger, pH adjusting agent, proppant, scale inhibitor, surfactant); ()
 - ii. The chemical compound name and Chemical Abstracts Service (CAS) number as found on the previously submitted MSDS shall be identified (such as the additive biocide is glutaraldehyde, or the additive breaker is ammonium persulfate, or the proppant is silica or quartz sand, and so on for each additive used); ()
 - iii. The proposed rate or concentration for each additive and the total volume of each shall be provided (such as gel as pounds per thousand gallons, or biocide at gallons per thousand gallons, or proppant at pounds per gallon, or expressed as percent by weight or percent by volume, or parts per million, or parts per billion); and ()
 - iv. The formulary disclosure of the chemical compounds used in the well stimulation(s) for the purpose of protecting public health and safety. ()

- c. A detailed description of the proposed well stimulation design, which shall include: ()
 - i. The anticipated surface treating pressure range; ()
 - ii. The maximum injection treating pressure, which shall be within accepted safety limits. Accepted safety limits are generally 80% of the maximum pressure rating of the pressurized system; ()
 - iii. The estimated or calculated fracture height in both the horizontal and vertical directions. ()

02. BTEX Compounds. The injection of volatile organic compounds, such as benzene, toluene, ethyl benzene and xylene, also known as BTEX compounds, or any petroleum distillates into ground water in excess of the applicable ground water quality standards is prohibited. BTEX compounds may be appropriate as additives, but they are not appropriate for use as the base fluids. The proposed use of BTEX compounds or any petroleum distillates for well stimulation into hydrocarbon bearing zones may be authorized with prior approval of the director. Water that is produced with oil and gas, and which may contain small amounts of naturally occurring volatile organic compounds or petroleum distillates, may be used as well stimulation fluid in hydrocarbon bearing zones. ()

03. Well Integrity. Prior to the well stimulation, the owner or operator will perform a suitable mechanical integrity test of the casing or of the casing-tubing annulus or other mechanical integrity test methods and submit an affidavit certifying that the well was tested in anticipation of proposed treatment pressures. The owner or operator will notify the Department of this test twelve (12) to twenty-four (24) hours in advance. ()

04. Pressure Monitoring. During the well stimulation operation, the owner or operator shall monitor and record the annulus pressure at the casinghead. If intermediate casing has been set on the well being stimulated, the pressure in the annulus between the intermediate casing and the production casing shall also be monitored and recorded. If the annulus pressure increases by more than five hundred (500) psi gauge as compared to the pressure immediately preceding the stimulation, the owner or operator shall verbally notify the Department as soon as practicable but no later than twenty-four (24) hours following the incident. ()

05. Post Treatment Report. In addition to the information required by Subsection 055.07 of this rule, the owner or operator shall provide the following post-treatment reporting: ()

a. The actual total well stimulation treatment volume pumped; ()

b. The actual surface pressure and rate at the end of each fluid stage and the actual flush volume, rate and final pump pressure; ()

c. The instantaneous shut-in pressure, and the actual fifteen (15) minute and thirty (30) minute shut-in pressures when these pressure measurements are available; ()

d. A continuous record of the annulus pressure during the well stimulation; ()

e. A copy of the well stimulation service contractor's job log, without any cost/pricing data from the field ticket, in lieu of paragraphs (a) through (d) above. If the job log does not contain all the needed information, it must be supplemented with additional information needed to satisfy paragraphs 056.05.a. through 056.05.d. of this rule. ()

f. A report containing all details pertaining to any annulus pressure increases of more than five hundred (500) psi gauge as described in Subsection 056.05 of this rule. The report shall include corrective actions taken, if necessary. ()

g. Results of post treatment fluid analysis used to help determine where the fluid can be disposed. ()

057. -- 059. (RESERVED)

060. TRANSFER OF DRILLING PERMITS.

No person to whom a permit has been issued shall transfer the permit to any other location or to any other person until the following requirements have been complied with: (10-21-92)

01. Prior to Drilling Well. If, prior to the drilling of a well, the person to whom the permit was originally issued desires to change the location, they shall submit a letter so stating and another application properly filled out showing the new location. ~~No additional fee is necessary, but a~~ Drilling shall not be started until the transfer has been approved and the new permit posted at the new location. (10-21-92)()

02. During Drilling or After Completion. If, while a well is drilling being drilled or after it has been completed, the person to whom the permit was originally issued disposes of ~~his~~ their interest in the well, they shall submit a written statement to the Commission Department setting forth the facts and requesting that the permit be transferred to the person who has acquired the well. (10-21-92)()

03. Terms for Acceptance of Transfer ~~by Commission.~~ Before the transfer of a drilling permit shall be recognized, the person who has acquired the well must submit a written statement setting forth that ~~he has~~ they have acquired such well and assumes full responsibility for its operation and abandonment in conformity with the

law, rules, regulations, and orders issued by the Commission. If bond is required to guarantee compliance with the rules and regulations of the Commission, the person acquiring such well shall furnish bond. ~~(10-21-92)~~()

061. -- 069. (RESERVED)

070. **BONDING.**

01. Individual Bond. The ~~Commission~~ Department shall, except as hereinafter provided, require from the owner or operator a good and sufficient bond in the sum of not less than ten thousand dollars (\$10,000) plus one dollar (\$1) for each foot of planned well length in favor of the ~~Commission, Department.~~ The bond shall be conditioned upon the performance of the ~~owner's or operator's~~ duty to comply with the requirements of the ~~Idaho Oil and Gas Conservation~~ Act and the rules and regulations of the Commission, with respect to the drilling, maintaining, operating, and plugging of each well drilled for oil and gas ~~and the reclamation of surface disturbance associated with these activities.~~ Said bond shall remain in force and effect until the plugging of said well is approved by the ~~Commission~~ Department, or the bond is released by the ~~Commission~~ Department. ()

02. Blanket Bond. ~~It is provided that~~ In lieu of the bond in Subsection 070.01 of this rule, any owner or operator ~~in lieu of such bond~~ may file with the ~~Commission~~ Department a good and sufficient blanket bond ~~in a sum of not less than twenty five thousand dollars (\$25,000), covering all active wells drilled or to be drilled in the state of Idaho by the principal in said bond, and the acceptance and approval by the Commission of such blanket bond shall be in full compliance with the above provision requiring an individual well bond.~~ The bond(s) herein before referred to shall be by a corporate surety authorized to do business in the state of Idaho or in cash. ~~The amount of the blanket bond will be as follows according to the number of active wells covered by the bond:~~~~(10-21-92)~~()

a. ~~Up to ten (10) wells, fifty thousand dollars (\$50,000);~~ ()

b. ~~Eleven (11) to thirty (30) wells, one hundred thousand dollars (\$100,000); or~~ ()

c. ~~More than thirty (30) wells, one hundred fifty thousand dollars (\$150,000).~~ ()

03. Inactive Well Bond. ~~An owner or operator must provide the Department with a bond of at least ten thousand dollars (\$10,000) plus one dollar (\$1) for each foot of planned well length for each inactive well conditioned upon the performance of the duty to comply with the requirements of the Idaho Oil and Gas Conservation Act and the rules and regulations of the Commission, with respect to the drilling, maintaining, operating, and plugging of each well drilled for oil and gas. Said bond shall remain in force and effect until the plugging of said well is approved by the Department, or the bond is released by the Department. Inactive wells may not be covered by a blanket bond as provided in Subsection 070.02 of this rule.~~ ()

04. Additional Bonding. ~~The Department may impose additional bonding on an owner or operator given sufficient reason, such as non-compliance, unusual conditions, horizontal drilling, or other circumstances that suggest a particular well or group of wells has potential risk or liability in excess of that normally expected. The owner or operator may request a hearing to appeal either the decision to impose an additional bond or the proposed amount of the bond.~~ ()

071. -- ~~074~~. (RESERVED)

075. **SURFACE OWNER PROTECTIONS.**

01. Surface Use Agreement. ~~If the mineral estate has been severed from the surface estate where an oil or gas well is to be located, the owner or operator shall attempt a good faith negotiation of a surface use agreement with the surface owner. The surface use agreement must address how the surface owner will be compensated for lost agricultural income and lost value of improvements directly caused by oil and gas exploration and production. The owner or operator may rely on the tax records of the respective county assessor to identify the surface owner.~~ ()

02. Surface Owner Notification. ~~If a surface use agreement cannot be negotiated, then the owner or operator must notify the surface owner of the intent to drill by certified mail at least sixty (60) days prior to the commencement of surface disturbing activities, unless otherwise agreed to by the surface owner. The notification~~

must include a proposed surface use bond amount, and a copy must be sent to the Department. ()

03. Surface Owner Objection. If the surface owner disagrees with the owner's or operator's proposed surface use bond amount, the surface owner must send a written objection to the Department within thirty (30) days of receiving the notification from the owner or operator. The objection must contain their proposed surface use bond amount. Any objection filed will not delay the owner's or operator's proposed start of surface disturbing activities. ()

04. Surface Use Bond. The minimum surface use bond in all instances with no surface use agreement will be five thousand dollars (\$5,000), and will be paid in cash to the Department. If the surface owner objects to the owner's or operator's proposed bond amount, the Department will determine a surface use bond based on the information received from both the owner or operator and the surface owner. The Department will then request that the owner or operator submit this bond. The Department may issue the permit and authorize the commencement of drilling operations after this bond has been received. The purpose of this bond is to safeguard the surface owner's loss of agricultural income and improvement values pending the results of a hearing on the final bond. ()

05. Hearing to Determine Surface Use Bond. When the owner, operator, or surface owner objects to the Department's proposed surface use bond, a hearing will be scheduled as soon as possible to determine the final bond amount. The owner, operator, surface owner, and Department may offer testimony to the hearing officer. The hearing officer will recommend a final bond amount to the Commission. After the Commission's final order, the owner or operator and surface owner will have twenty eight (28) days to file a request for judicial review. ()

06. Release of Surface Use Bond. The Department will hold the bond pending either a surface use agreement between the two (2) parties that negates the need for a surface use bond, or reclamation of the surface disturbance. ()

07. Forfeiture of Surface Use Bond. The Department may forfeit this bond upon failure of the owner or operator to reclaim the disturbed area in a timely manner, or upon failure of the parties to reach a surface use agreement, upon the completion of drilling operations. ()

076. -- 079. (RESERVED)

080. GENERAL DRILLING RULES.

Unless altered, modified, or changed for a particular pool(s), upon hearing before the Commission, the following shall apply to the drilling of all wells: (10-21-92)

01. General Design Requirements for Casing and Cementing. Casing and cementing programs adopted for wells must be so planned as to protect any potential oil- or gas-bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil or gas from one horizon to another. Owners and operators shall follow the standards for casing and tubing in API SPEC 5CT and the standards for cementing in API SPEC 10A. ()

02. Wildcat and High-Pressure Conditions. When drilling wildcat territory or in any field where high pressures are likely to exist, the owner or operator shall take all necessary precautions to keep the well under control at all times and shall use proper high-pressure fittings and equipment at the time the well is started. Under such conditions all strings of casings must be securely anchored. ()

03. High Temperature Conditions. Due to high geothermal gradients in Idaho, the temperature of the return drilling mud shall be monitored daily during the drilling of the surface casing hole and all deeper holes. The owner or operator must use cements appropriate for the temperatures expected or encountered. ()

014. ~~Wildcat and High-Pressure Conditions; Conductor Pipe or Casing and Well Control Requirements.~~ ~~When drilling "wildcat" territory or in any field where high pressures are likely to exist, the owner shall take all precautions for keeping the well under control at all times and shall provide at the time the well is started proper high-pressure fittings and equipment. Under such conditions the conductor string of casings must be cemented throughout its length, unless other procedure is authorized or prescribed by the director, and all strings of casings must be securely anchored. A minimum of forty (40) feet of conductor pipe shall be installed. If geologic~~

conditions are such that forty (40) feet is not feasible, the owner or operator may request a variance from the Department. The annular space is to be cemented solid to the surface. A twenty-four (24) hour cure period for the grout must be allowed prior to drilling out the shoe unless sufficient additives, as determined by the Department, are used to obtain early strength. (10-21-92)(____)

025. ~~Surface Casing Requirements; Unknown Formation and Pressure Conditions.~~ *In areas where pressure and formations are unknown, sufficient surface casing shall be run to reach a depth below all known or reasonably estimated utilizable domestic freshwater levels and to prevent blowouts or uncontrolled flows and shall be of sufficient size to permit the use of an intermediate string(s) of casing. Surface casing shall be set in or through an impervious formation and shall be cemented by the pump and plug or displacement or other approved method with sufficient cement to fill the annulus to the top of the hole, in accordance with reasonable requirements of the director.* (10-21-92)(____)

a. Surface casing must be set at a minimum depth equal to ten percent (10%) of the proposed total depth of the well. In areas where pressures and formations are unknown, a minimum of two hundred (200) feet of surface casing shall be set. (____)

b. This casing shall provide for control of formation fluids, protection of fresh water, and for adequate anchorage of blow out prevention equipment. The casing must be seated through a sufficient series of low permeability, competent lithologic units such as claystone, siltstone, basalt, etc., to insure a solid anchor for blow out prevention equipment and to protect usable ground water from contamination. Additional surface casing may be required if the first string has not been cemented through a sufficient series of low permeability, competent lithologic units, or rapidly increasing thermal gradients or formation pressures are encountered. (____)

c. All surface casing shall be cemented solid to the surface by pump and plug, displacement, or other approved method. When surface samples are cured, additional drilling activities may commence. (____)

~~**03.** Surface Casing Requirements; Known Subsurface Conditions.~~ *In wells drilled in areas where subsurface conditions have been established by drilling experience, surface casing, size at the owner's option, shall be set and cemented to the surface by the pump and plug or displacement or other approved method at a depth sufficient to protect all utilizable domestic fresh water and to insure against blowouts or uncontrollable flows.* (10-21-92)

~~**04.** Cement Minimum Set Up Time.~~ *Cement shall be allowed to set a minimum of eight (8) hours under pressure before drilling the plug. The term "under pressure" as used herein will be complied with if one (1) float valve is used or if pressure is otherwise held.* (10-21-92)

056. ~~Requirements for Blowout Prevention BOP Equipment.~~ Unless altered, modified, or changed for a particular pool(s) upon hearing before the Commission, ~~blowout preventers~~ BOP and related equipment shall be installed and maintained during the drilling of all wells in accordance with the following rules: (10-21-92)(____)

a. BOP equipment installed on wells in which formation pressures to be encountered are abnormal or unknown shall consist of a double-gate, hydraulically operated preventer with pipe and blind rams or two (2) single-ram-type preventers; one (1) equipped with pipe rams, the other with blind rams and an annular type preventer. In addition, upper and lower kelly cocks, pit level indicators with alarms and/or flow sensors with alarms, and surface facilities to handle pressure kicks shall be installed prior to drilling any formation with known abnormal pressure. (10-21-92)

i. Accumulators shall maintain a pressure capacity reserve at all times to provide for operation of the hydraulic preventers and valves with no outside source. (10-21-92)

ii. In all other drilling operations, BOP equipment shall consist of at least one (1) double-gate preventer with pipe and blind rams or two (2) single-ram-type preventers, one (1) equipped with pipe rams, the other with blind rams, and sufficient valving to permit fluid circulation at the surface. (10-21-92)

b. All blowout preventers, choke lines, and manifolds shall be installed above ground level. Casing heads and optional spools may be installed below ground level provided they are visible and accessible.

(10-21-92)()

c. ~~Blowout preventer~~ BOP equipment and related casing heads and spools shall have a vertical bore no smaller than the inside diameter of the casing to which they are attached. (10-21-92)()

d. The working pressure rating of all blowout preventers and related equipment shall equal or exceed the maximum anticipated pressure to be contained at the surface. (10-21-92)

e. All ram-type blowout preventers and related equipment, including casing, shall be tested to the full working pressure rating of said equipment upon installation, provided that components need not be tested to levels higher than the lowest working pressure rated component. Annular type blowout preventers are to be tested in conformance with the manufacturer's published recommendations. If, for any reason, a pressure seal in the assembly is disassembled, a test to a full working pressure rating of that seal shall be conducted prior to the resumption of any drilling operation. In addition to the initial pressure tests, ram-type preventers shall be checked for physical operation ~~each trip~~ at least once per week and all components, again with exception of the annular-type blowout preventer, tested ~~monthly~~ at least once every twenty-one (21) days to at least fifty percent (50%) of the rated pressure of the BOP equipment and/or to the maximum anticipated pressure to be contained at the surface, whichever is greater. (10-21-92)()

f. The ~~Commission~~ Department may require an affidavit covering the initial pressure tests after installation signed by the ~~owner~~, operator, or contractor attesting to the satisfactory pressure tests. The ~~Commission staff~~ Department is to be advised at least twenty-four (24) hours in advance of all tests. (10-21-92)()

g. A schematic diagram of the BOP and well head assembly shall be submitted to the ~~Commission staff~~ Department upon application for a permit to drill. The schematic diagram should indicate the minimum size and pressure rating of all components of the well head and BOP assembly. (10-21-92)()

h. Studs on all well head and BOP flanges shall be checked for tightness each week. Hand wheels for locking screws shall be installed and operational, and the entire BOP and well head assembly shall be kept clean of mud and ice. (10-21-92)

i. A drillstem safety valve shall be available on the rig floor at all times with correct thread for the pipe in use. (10-21-92)()

i. A drillstem float valve shall be installed in bit sub or as close to bit as reasonably possible. ()

07. Intermediate Casing. ()

a. Intermediate casing, if installed, shall be cemented solidly to the surface or to the top of the casing. ()

b. Intermediate casing not run to surface will be lapped into at least one hundred feet (100) feet of the surface casing, or at least 100 feet of the next larger casing to provide overlap and secure a seal. ()

c. Such casing shall be cemented and pressure tested before cement plugs are drilled. ()

068. Production String Casing; Cementing and Testing Requirements. ()

a. If and when it becomes necessary to run a production string casing, such string casing shall be cemented by the pump and plug method and shall be properly and pressure tested by the pressure method before cement plugs are drilled. (10-21-92)()

a. When not run to the surface, production casing will be cemented from the bottom of the hole up into at least one hundred feet (100) feet of the next larger casing to provide overlap and secure a seal. ()

b. If the bottom plug will be drilled out, the open hole interval must be completed to protect any

~~potential oil-bearing or gas-bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil or gas from one (1) horizon to another. ()~~

~~079. Blowout Control (Rotary Tools); Auxiliary Reserve Mud Tanks. When drilling with rotary tools, the owner or operator shall provide, as required by the director Department, an auxiliary a reserve mud pit or tank of suitable capacity for the anticipated depth of the well and maintain therein an on-site supply of mud having the proper characteristics for emergency use additives that can raise the mud weight by one (1) pound per gallon in case of blowouts. (10-21-92)()~~

~~0810. Mud Pits. Before commencing to drill, proper and adequate mud pits shall be constructed for the reception and confinement of mud and cuttings and to facilitate the drilling operation. Special precautions shall be taken, if necessary, to prevent contamination of streams and potable fresh waters. All pits must be lined. If tanks will be used, then mud pits may not be required. (10-21-92)()~~

~~0911. Well Control (Cable Tools); Fluid Containment and Gas Flaring. Natural gas or oil which may be encountered in a substantial quantity in any section of a cabletool drilled hole above the ultimate objective shall be shut off with reasonable diligence either by mudding or by casing, or other approved method, and confined to its original source to the satisfaction of the director Department. Any gas escaping from the well during drilling operations shall be, as far as practicable, conducted to a safe distance from the well site and burned. (10-21-92)()~~

~~12. Drilling Mud Disposal. Drilling mud will be disposed of at an appropriate facility in compliance with applicable state and federal requirements. ()~~

~~10. Casing Programs; General Design Requirements. Casing programs adopted for wells must be so planned as to protect any potential oil or gas-bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil or gas from one horizon to another. (10-21-92)~~

~~143. Report of Fresh Waters Encountered; Owner's or Operators Duties. It shall be the duty of any person, owner or operator or contractor drilling an oil or gas well or drilling a seismic, core or other exploratory hole to report to the Commission Department all freshwater sands potential water bearing zones encountered; such report shall be in writing and give the location of the well or hole, the depth at which the sands zones were encountered, the thickness of such sands zones, and the rate of flow of water if known. This requirement can be met by the submittal of the logs required in Section 090 of this rule. (10-21-92)()~~

~~14. Spill Prevention, Control, and Countermeasures Plan. Owner or operator must have a Spill Prevention, Control, and Countermeasures Plan in conformance with the requirements of the EPA. This plan must be updated as needed when facilities or activities change. ()~~

~~15. Interim Drill Site Clean Up. If a well is completed for production or other purposes, interim reclamation must be completed within six (6) months of the rig being removed. Interim reclamation includes the following activities: ()~~

~~a. Debris and waste materials including, but not limited to, concrete, sack bentonite and other drilling mud additives, sand, plastic, pipe, and cable associated with the drilling, re-entry, or completion operations shall be removed and disposed of properly. ()~~

~~b. All disturbed areas affected by drilling or subsequent operations, except areas reasonably needed for production operations or for subsequent drilling operations to be commenced within twelve (12) months, shall be reclaimed and revegetated to approximately the pre-drilling condition or to the condition specified in an agreement with the surface owner. The reclamation standards in Subsections 325.04 through 325.07 of these rules, shall apply. ()~~

081. -- ~~084~~. (RESERVED)

085. PIT REQUIREMENTS.

01. Plans Required. If pits are proposed to be constructed in connection with another permit application required by these rules, then the owner or operator must include plans for pit construction in the application. If a pit is needed after the other permits have been approved, then an application to amend the permit must be made to the Department with an application fee. Approval by the Department is required prior to the pit being constructed unless the pit is necessary for an emergency action. Pit applications must include the permit number, well name, well location, as-built description if drilling has been completed, proposed pit location, and plans for pit construction, operation, and reclamation. ()

02. Location. ()

a. Pits must be located where they are structurally sound and the liner systems can be adequately protected against factors such as wild fires, floods, landslides, surface and ground water systems, equipment operation, and public access. ()

b. Pits located in a one hundred (100) year floodplain must be in conformance with any applicable floodplain ordinances pertaining to activities within the one hundred (100) year floodplain. ()

c. Pits shall not be located within an IDEQ recognized source water assessment or protection areas for public drinking water systems. ()

03. Site Preparation. All sites must be properly prepared prior to pit construction. Vegetation, roots, brush, large woody debris and other deleterious materials, topsoil, historic foundations and plumbing, or other materials that may adversely affect appropriate construction, must be removed from the footprint of the pit unless approved by the Department. ()

04. Pit Sizing Criteria. ()

a. Pits that have constructed berms ten (10) or more feet in height or hold fifty (50) acre-feet or more of fluid must also comply with the dam safety requirements of IDAPA 37.03.06, "Safety of Dams Rules." ()

b. Pits must be designed to hold the maximum volume of fluids being used for drilling or well treatment and the volume of water associated with a one hundred (100) year, twenty-four (24) hour precipitation event. ()

c. Snowmelt events shall be considered in determining the containment capacity. ()

d. Pits that are left over winter must be able to contain one hundred twenty-five percent (125%) of the average annual precipitation that falls from October through May. ()

e. Pits must be designed to maintain a minimum two (2) foot freeboard at all times. Contingency plans for managing excesses of fluids shall be described in the application. At no time shall fluids in a pit be allowed to escape from the impoundment. ()

05. Minimum Plans and Specifications for Reserve, Well Treatment, and Other Short Term Pits. Pits used for one (1) year or less, not including extensions, are short term pits. Construction plans and specifications for short term pits must include the requirements under Subsections 085.02 through 085.04 of this rule and the following: ()

a. A prepared subbase, which shall be free of plus three (3) inch rocks, roots, brush, trash, debris or other deleterious materials, and compacted to ninety-five percent (95%) of Standard Proctor Test ASTM D698-07e1 or ninety-five percent (95%) of Modified Proctor Test ASTM D1557-09; ()

b. Slopes of two (2) feet horizontal to one (1) foot vertical (2H:1V) or flatter for all interior and exterior pit walls. The top of a bermed pit wall must be a minimum of two (2) feet wide; ()

c. A primary liner system consisting of a synthetic liner of at least twenty (20) mils thickness and constructed according to manufacturers' standards with at least four (4) inches of welded seam overlap and complete

coverage on the floor and inside walls of the pit. Seams must run parallel to the line of maximum slope so they do not traverse across the slope. The liner edges shall be anchored in a compacted earth filled trench at least eighteen (18) inches in depth. The liner must be protected against cracking, sun damage, ice, frost penetration or heaving, wildlife and wildfires, and damage that may be caused by personnel or equipment operating in or around these facilities. Liner compatibility shall comply with EPA SW-846 method 9090A. Alternative liner systems with similar standards may be proposed by the owner or operator and approved at the Department's discretion; ()

d. Minimum factors of safety, and the logic behind their selection, for the stability of the earthworks and the lining system of the pit; ()

e. Site-specific methods for excluding people, terrestrial animals, and avian wildlife from the pits; ()

f. Segregation and stockpiling of topsoil in a manner that will support reestablishment of the pre-disturbance land use after pit closure; and ()

g. A closure plan including the following; ()

i. Testing of residual fluids and any accumulated solids if anything other than water based drilling fluid was placed in the pit; ()

ii. Plans for removal and disposal of residual fluids and accumulated solids, with the liner material, at an appropriate facility; ()

iii. Regrading plan, replacement of topsoil, and erosion control measures; and ()

iv. Reseeding and Revegetation. ()

06. Minimum Plans and Specifications for Long Term Pits. Pits used for more than one (1) year, not including extensions, are long term pits. Construction plans and specifications for long term pits must include the requirements under Subsections 085.02 through 085.05 of this rule and the following: ()
A quality control/quality assurance construction and installation plan; ()

a. Type of fluids to be contained in the pit; ()

b. Secondary containment synthetic liners, which shall have a minimum thickness of sixty (60) mils consisting of HDPE and a maximum coefficient of permeability of 10^{-9} cm/sec, or comparable liners approved by the Department; ()

c. Leak detection and collection systems. The plans and specifications shall; ()

i. Provide a material between primary and secondary containment synthetic liners to collect, transport and remove all fluids that pass through the primary containment synthetic liner at such a rate as to prevent hydraulic head from developing on the secondary containment synthetic liner to the level at which it may be reasonably expected to result in discharges through the secondary containment synthetic liner; ()

ii. Provide routines and schedules for the evaluation of the efficiency and effectiveness of the removal of fluids from the layer placed between primary and secondary containment synthetic liners. The properly working system shall continually relieve head pressures on the secondary containment synthetic liner; ()

iii. Provide specific triggers for maintenance routines, which shall be initiated in response to inadequate performance of primary or secondary containment synthetic liners; and ()

iv. Specify operation and maintenance procedures, which shall be initiated in response to inadequate performance of primary and secondary containment or leak detection and collection systems. ()

e. All piping, including that contained in the leak detection and collection system, shall have a

minimum wall thickness of schedule 80 and be designed to: ()

i. Withstand chemical attack from oil field waste or leachate: ()

ii. Withstand structural loading from stresses and disturbances from cover materials or equipment operation; and ()

iii. Facilitate clean-out and maintenance. ()

f. Protections for the liner from excessive hydrostatic force or mechanical damage at the point of discharge into, or suction from, the pit. External discharge or suction lines shall not penetrate the liner; ()

g. Plans for erosion control during and immediately following construction; and ()

h. Operating and maintenance plans. ()

07. Time Limits for Short Term Pits. Reserve, well treatment, and other short term pits must be closed out and reclaimed within one (1) year of being constructed. The owner or operator may request a one-time extension for up to six (6) months. The Department may grant the request if the owner or operator gives sufficient cause and presents a plan for ensuring that the pit is adequately monitored and maintained. ()

a. Fluids may be left in a pit for up to six (6) months after the associated well activities are conducted. The owner or operator may request a one-time extension for up to one (1) year. The Department may grant the request if the owner or operator gives sufficient cause and presents a plan for keeping the fluids in a usable state. ()

b. Notwithstanding the above time limits, the owner or operator may request additional time based upon conditions wholly outside of the owner's or operator's control including, but not limited to, governmental lease requirements and delays related to difficult drilling conditions. The Department may impose additional construction or monitoring requirements prior to granting additional time. ()

08. Emergency Pits. Pits constructed during an emergency situation may be approved by an after-the-fact application submitted to the Department. The requirements in Subsections 085.02 through 085.05 of this rule shall apply, and the pit must be closed out and reclaimed within six (6) months of being constructed. The Department must be notified within twenty-four (24) hours of an emergency situation requiring an emergency pit. ()

09. Operating Requirements. ()

a. Waste oil, hydraulic fluid, transmission fluids, trash, or any other miscellaneous waste products must not be disposed of in a pit. Placement of these materials into a pit may result in the creation of a mixed waste that requires handling and disposal as a hazardous waste. ()

b. If a pit liner's integrity is compromised, or if any penetration of the liner occurs above the liquid's surface, then the owner or operator shall notify the appropriate Department area office within forty-eight (48) hours of the discovery and repair the damage or replace the liner. ()

c. If a pit or closed-loop system develops a leak, or if any penetration of the pit liner occurs below the liquid's surface, then the owner or operator shall remove all liquid above the damage or leak line within forty-eight (48) hours, notify the appropriate Department area office within forty-eight (48) hours of the discovery, and repair the damage or replace the pit liner. ()

d. The owner or operator shall install, or maintain on site, an oil absorbent boom or other device to contain and remove oil from a pit's surface. Visible oil must be removed from short term pits immediately following the cessation of activity for which the pit was constructed. Visible oil must be removed from long term pits as soon as it is discovered. ()

10. Closure of Pits. ()

a. The owner or operator shall remove all liquids from the pit prior to closure and dispose of them at an appropriate facility or reuse them at a different location. If the nature of the fluids has substantially altered during their use, then the fluids must be sampled and tested to determine which disposal facility can accept them. ()

b. Any solids that have been accumulated in the bottom of the pit will be tested to determine which disposal facility can accept the material. The solid material and liner will then be removed and disposed of at an appropriate facility. ()

c. The owner or operator must notify the Department at least forty-eight (48) hours prior to removal of the pit liner so an inspection may be conducted. ()

d. The pit foundation shall be inspected for signs of leakage. If evidence of leakage is observed, the owner or operator must contact the Department and the IDEQ within twenty-four (24) hours and report the type of fluids released and the estimated extent of release. The owner or operator must then remediate the site in conformance with the applicable standards administered by IDEQ in IDAPA 58.01.02," Water Quality Standards," Sections 850 through 852. ()

e. After addressing any pit leakage concerns, the owner or operator shall perform the activities described in Subsections 325.04 through 325.07 of these rules. ()

11. **Condemnation Due to Improper Impoundment.** The Department shall have authority to condemn any pit which does not properly impound fluids and order the disposal of such fluids in conformance with IDAPA 58.01.16, "Wastewater Rules," and other applicable rules. ()

086. -- 089. (RESERVED)

090. WELL COMPLETION/RECOMPLETION REPORT AND WELL LOG REPORT.

Within thirty (30) days after the completion of a well drilled for oil or gas, or the recompletion of a well into a different source of supply, or where the producing interval is changed, a completion report shall be filed with the Commission Department, on a form prescribed by the Commission Department. Such report shall include name, number, and exact location of the well; lease name, date of completion and date of first production, if any; name and depth of hydrocarbon reservoir(s), if a multiple completion, from which well is producing; annulus pressure test; initial production test, including oil, gas, and water, if any; a well log report as defined in Section 010; and such other relevant information as the Commission Department may require. (10-21-92)()

091. DRILLING LOGS.

01. **Minimum Required Logs.** All wells shall have a lithologic log from the bottom of the hole to the top, to the extent practicable. ()

02. **Bottom Hole Survey.** All wells must have a bottom hole location survey. ()

03. **Cement Bond Log.** All wells that are cased and cemented shall have a cement bond log run across the casing. ()

04. **Other Logs.** If other logs are run, including, but not limited to, resistivity, gamma-neutron log, sonic log, etc., then the owner or operator will retain a copy regardless of results. ()

05. **Log Summittal.** The above logs must be submitted to the Department in paper and digital formats within thirty (30) days of the log being run. If logs were run in color, then the submitted copies must also be in color. Digital formats must be Tiff and LAS 2.0 or higher. ()

092. -- 094. (RESERVED)

095. ACTIVE WELLS.

01. **Gas Storage Wells.** Gas storage wells are to be considered active at all times unless physically

plugged. ()

02. Extension of Active Status. An owner or operator may request an extension of active well status for wells that are idled for more than twenty-four (24) continuous months. The owner or operator shall provide a written request to the Department stating the reason for the extension, the length of extension, the method used to close the well to the atmosphere, and the plans for future operation. The Department shall review the request for approval, modification, or denial, and shall set the duration of the extension if approved. An extension shall not exceed five (5) years and may be renewed upon request. ()

03. Annual Reports for Active Wells. The owner or operator shall submit an annual report to the Department describing the current status of the well and the plans for future well operation. Failure to submit the annual report may result in the Department declaring the well inactive. ()

096. INACTIVE WELLS.

01. Determination of Inactive Status. The Department shall declare a well inactive after twenty-four (24) continuous months of inactivity if the owner or operator has not received approval for an extension of active status, or after an owner or operator fails to submit an annual report for an active well. The Department will immediately notify an owner or operator of this determination by certified mail, and the owner or operator may appeal this determination to the Commission. ()

02. Owner's or Operator's Responsibility for Inactive Wells. The owner or operator must plug and abandon an inactive well in accordance with Section 320 of these rules within six (6) months of being notified by the Department unless the owner or operator supplies the following information within the six (6) month time period: ()

a. A written request to extend inactive status; ()

b. An individual bond, as provided for in Subsection 070.03 of these rules, if the well was covered by a blanket bond; and ()

c. A description of how the well is closed to the atmosphere with a swedge and valve, packer, or other approved method, and how the well is to be maintained. ()

03. Inactive Review and Decision. The Department shall review the request for approval, modification, or denial, and shall set the duration of the extension if approved. An extension shall not exceed three (3) years and may be renewed upon request. ()

04. Testing of Inactive Wells. In addition to the requirements of Section 105 of these rules, inactive wells shall have a mechanical integrity test performed within two (2) years after the date of last use in order to retain inactive status. ()

05. Converting Inactive Wells to Active Wells. The owner or operator must apply to the Department to change the status of a well from inactive to active. The Department shall review the request for approval, modification, or denial. A mechanical integrity test may be required by the Department if the well has been worked over or if a test has not been conducted for five (5) years or longer. If approved, the well may again be covered by a blanket bond. ()

~~097.~~ -- 099. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

101. -- ~~104.~~ (RESERVED)

105. MECHANICAL INTEGRITY TESTING.

01. Mechanical Integrity Testing. ()

a. The mechanical integrity test shall include one (1) of the following tests to determine whether leaks are present in the casing, tubing, or packer: ()

i. A pressure test with liquid or gas at a pressure of not less than three hundred (300) psi or the minimum injection pressure, whichever is greater, and not more than the maximum injection pressure; or ()

ii. The monitoring and reporting to the Department, on a monthly basis for sixty (60) consecutive months, of the average casing-tubing annulus pressure, following an initial pressure test; or ()

iii. In lieu of Subsections 105.01.a.i. and 105.01.a.ii. of this rule, any equivalent test or combinations of tests approved by the Department. ()

b. The mechanical integrity test shall include one (1) of the following tests to determine whether there are fluid movements in vertical channels adjacent to the well bore: ()

i. Tracer surveys; ()

ii. Cement bond log or other acceptable cement evaluation log; ()

iii. Temperature surveys; or ()

iv. In lieu of Subsections 105.01.b.i. through 105.01.b.iii. of this rule, any other equivalent test or combination of tests approved by the Department. ()

c. Mechanical integrity tests shall be performed at the rate of not less than one (1) test every five (5) years, regardless of well status. The first five (5) year period shall commence on the date the initial mechanical integrity test is performed. ()

02. Inactive Wells. If, at any time, surface equipment excluding the wellhead is removed or the well becomes incapable of production, a mechanical integrity test must be performed within thirty (30) days. The mechanical integrity test for an inactive well shall be isolation of the wellbore with a bridge plug or similar approved isolating device set one hundred (100) feet or less above the highest perforations and a pressure test with liquid or gas at a pressure of not less than three hundred (300) psi surface pressure or any equivalent test or combination of tests approved by the Department. ()

03. Prior Notification. Not less than ten (10) days prior to the performance of any mechanical integrity test required by this rule, any person required to perform the test shall notify the Department, in writing, of the scheduled date on which the test will be performed. ()

04. Reporting Requirements. Mechanical integrity test results shall be submitted to the Department within thirty (30) days of testing. ()

05. Mechanical Integrity Required. All wells shall maintain mechanical integrity. All wells which fail a mechanical integrity test, or which are determined through any other means to lack mechanical integrity, shall immediately be investigated by the owner or operator. The well shall be repaired or immediately shut down following the investigation. Repairs must be completed within six (6) months, or the well shall be plugged and abandoned. If the repair cannot be completed within six (6) months, the owner or operator may request an extension and provide a plan for the repair. ()

106. -- 109. (RESERVED)

110. DESIGNATION OF AGENT.

A "Designation of Agent" shall be submitted to the ~~director~~ Department in a manner and form approved by the

~~director~~ Department prior to the commencement of operations. A Designation of Agent(s) will be accepted as authority of agent to fulfill the obligations of the owner and to sign any papers or reports required under these oil and gas operating regulations, and all authorized orders or notices given by the ~~director~~ Department when given in the manner hereinafter provided shall be deemed service of such orders or notices upon the owner and the lessee. All changes of address and any termination of the agent's authority shall be immediately reported in writing to the ~~director~~ Department and, in the latter case, the designation of a new agent(s) shall be immediately made. If the designated agent(s) shall at any time be incapacitated for duty or absent from the address provided, the owner shall designate in writing a substitute to serve in his or their stead, and in the absence of such owner or of notice of appointment of a substitute then, in such case, notices may be given by the ~~director~~ Department by delivering a registered letter to the United States Post Office at Boise, Idaho, directed to the agent(s) at the address shown on the current Designation of Agent on file in the ~~director~~ Department's office, and such notice will be deemed service upon the owner and lessee. (10-21-92)()

111. -- 119. (RESERVED)

120. SURFACE EQUIPMENT.

01. General Requirements. Meter fittings of adequate size to measure the gas efficiently for the purpose of obtaining gas-oil ratios shall be installed on the gas vent line of every separator or proper connections made for orifice well tester. Well-head equipment shall be installed and maintained in excellent condition. Valves shall be installed so that pressures can be readily obtained on both casing and tubing. (10-21-92)()

02. Wellhead Production Meters. ()

a. For protection of correlative rights of all parties, the owner or operator of a natural gas well shall meter or caused to be metered all natural gas produced from a well, utilizing a standard industry meter approved by the American Gas Association and capable of recording accurately the volume of natural gas produced at each well, unless another methodology, approved by the director, is utilized to provide for proper production allocation back to the individual well from a central point production meter or central point sales meter, which ever meter occurs first. ()

b. All required meters shall be calibrated at least once per calendar year. The records of such calibration shall be maintained or made available by the owner or operator of the well and shall be available for inspection by the Department. Such records shall be maintained by the owner or operator for a period of at least five (5) years. ()

c. All required meters shall be accessible and viewable by the Department for the purpose of monitoring daily, monthly and/or cumulative production volumes from individual wells. ()

121. -- 124. (RESERVED)

125. LOSS OF TOOL WITH RADIOACTIVE MATERIAL.

01. Recovery or Cementing of Tool. If a gamma ray tool, or some other tool containing radioactive material, becomes lost in a well, the owner or operator will make every reasonable attempt to retrieve the tool from the well. If the tool cannot be recovered, the owner or operator must immediately cover the tool with cement sufficient to secure it in place and prevent it from contacting any fluids in the well. A whipstock or other approved deflection device shall be placed on top of the cement plug to prevent accidental or intentional mechanical disintegration of the radioactive source. ()

02. Sidetracking. If the hole is later sidetracked above the radioactive material, the sidetracked hole must be at least fifteen (15) feet from the original hole with the lost radioactive material. ()

03. Reporting. A report must be sent to the Department and IDEQ within thirty (30) days of cementing the tool. The report must describe the tool that was lost, the depth it was lost at, the specific type and amount of radioactive material in the tool, and an estimate of the length of cement covering the tool. This report may be included in a plugging report if the well will be plugged. ()

126. -- 129. (RESERVED)

130. FIRE HAZARD.

Any rubbish or debris that might constitute a fire hazard shall be removed to a distance of at least one hundred (100) feet from the well location, tanks, and separator. ~~All waste oil shall be burned or disposed of in a manner to avert creating a fire hazard.~~ (10-21-92)(____)

(BREAK IN CONTINUITY OF SECTIONS)

160. FIRE PROTECTION.

Dikes or firewalls shall be required where it is deemed necessary by the Commission Department to protect life, health, or property. Such dikes or firewalls must be erected and continuously maintained in good condition around all permanent oil tanks or batteries that are within the corporate limits of any city, town, or village, or where such tanks are closer than one hundred fifty (150) feet to any highway or inhabited dwelling, or closer than one thousand (1,000) feet to any school or church. The capacity of the dike, or firewall, shall be one and one-half (1 1/2) times the capacity of the tank(s) that it surrounds. The reservoir so formed within the dike shall be kept free from vegetation, water, and oil. (10-21-92)(____)

161. -- 169. (RESERVED)

170. WELL DIRECTIONAL CONTROL.

01. General Restrictions; Allowable Deviation. The maximum point at which a well penetrates the producing formation shall not unreasonably vary from the vertical drawn from the center of the hole at the surface. Deviation is permitted without special permission to remedy blowouts and, for short distances, to straighten the hole, sidetrack junk, or correct other mechanical difficulties. (10-21-92)

02. Controlled Directional Drilling. Except for the purposes recited in Subsection 170.01, no well hereafter drilled may be intentionally directionally deviated from the vertical unless the owner or operator thereof shall first file ~~application and obtain a permit from the Commission~~ an application and application fee to amend the drilling permit and receive approval from the Department. Such application shall contain the following information: (10-21-92)(____)

- a. Name and address of the owner or operator. (10-21-92)(____)
- b. Lease name, well number, name of field and reservoir and county. (10-21-92)
- c. Description of surface location and proposed location of the producing interval (footage from lease and section or block and survey lines). (10-21-92)
- d. Reason for intentional deviation. (10-21-92)
- e. List of offset operators and statement that each has been furnished a copy of the application by registered mail. (10-21-92)
- f. Signature of representative of owner or operator. (10-21-92)(____)
- g. Notification to offset operators that any objection they may have to the proposed intentional deviation of the well must be filed with the Commission Department within fifteen (15) days of receipt of a copy of the application. (10-21-92)(____)
- h. The application shall be accompanied by a neat, accurate plat or sketch of the lease and all offset leases showing the names of all offset operators and the surface and proposed producing interval locations of the

well. Plat shall be drawn to a scale which will permit facile observation of all pertinent data. (10-21-92)

03. Copy of Application to Offset Operators. At the time the application is filed with the Commission Department, a copy of the application and the plat shall be forwarded by registered mail to all offset operators to the lease on which the well is to be drilled. (10-21-92)()

04. Commission Department Action. Upon receipt, the Commission Department will hold the application for fifteen (15) days. If objection from any offset operator to the proposed intentional deviation is received within fifteen (15) days of receipt of the application by said operator, or if the Commission Department is not in agreement with the proposed deviation, the application shall be set down for public hearing. If no objection from either an offset operator or the Commission Department is interposed within the fifteen (15) day period, the application shall be approved and permit issued by the Commission Department. If written consent of the offset operator(s) is filed concurrently with the application to drill directionally, the Commission Department may immediately approve the application without waiting fifteen (15) days. (10-21-92)()

05. Angular Deviation and Directional Survey. Upon completion, a complete angular deviation and directional survey of the well obtained by an approved well surveying company shall be filed with the Commission Department, together with other regularly required reports. (10-21-92)()

06. Application for Exceptions. In the event the proposed, or final, location of the producing interval of the directionally deviated well is not in agreement with spacing or other rules of the Commission applicable to the reservoir, proper applications shall be made to obtain approval of exceptions to such rules. Such approval shall be granted or denied at the discretion of the Commission Department, and shall be accorded with the same consideration and treatment as if the well had been drilled vertically to the producing interval. (10-21-92)()

171. -- 179. (RESERVED)

180. VACUUM PUMPS PROHIBITED.

The use of vacuum pumps or other devices for the purpose of placing a vacuum on any gas- or oil-bearing stratum is prohibited; however, the Commission Department may upon application and hearing and for good cause shown permit the use of vacuum pumps. (10-21-92)()

181. -- 189. (RESERVED)

190. PULLING OUTSIDE STRINGS OF CASING.

Casing shall not be recovered if its recovery will expose any abnormal pressure, lost circulation, oil, gas, or water zone. In pulling outside strings of casing from any oil or gas well, the space outside the casing left in the hole shall be kept and left full of mud-laden fluid of adequate specific gravity to seal off all fresh and saltwater strata and any strata bearing oil or gas which is not producing. Casing may not be pulled without first making application to the Department and receiving approval. The application must describe how fresh waters will be protected. (10-21-92)()

191. -- 199. (RESERVED)

200. ACCIDENTS AND FIRES.

The owner or operator shall take all reasonable precautions to prevent accidents and fires; shall An emergency response plan will be prepared and available at the well for use or inspection. Coordination with local emergency responders and the Idaho Bureau of Homeland Security is recommended prior to rig set up. The following actions must be taken in event of a release, industrial accident, or fire of major consequence: ()

01. Provide Information to Emergency Response. Emergency workers will be given information on all fluids or chemicals involved in a spill or accident as needed according to OSHA Standard 1910.1200 (Hazard Communication). Nothing in this rule shall authorize any person to withhold information which is required by state or federal law to be provided to a health care professional, a doctor, or a nurse. All information required by a health care professional, a doctor, or a nurse shall be supplied, immediately upon request, by the owner or operator or their contractors directly to the requesting health care professional, doctor, or nurse, including the percent by volume of the chemical constituents (and associated CAS numbers) in the fluids and the additives; ()

02. Initiate Spill Response and Corrective Actions. Owner or operator must comply with the requirements of IDAPA 58.01.02, "Water Quality Standards," Sections 850 through 852; and ()

03. Notify the Department. ~~#~~Notify the ~~director~~ Department within twenty-four (24) hours ~~of all accidents (other than personal injuries and deaths) or fires of major consequence,~~ and ~~shall~~ submit a full report thereon within fifteen (15) days. (10-21-92)()

201. -- 209. (RESERVED)

210. PRODUCING FROM DIFFERENT POOLS THROUGH THE SAME CASING STRING.
No well shall be permitted to produce either oil or gas from different pools through the same string of casing without first receiving written permission from the ~~director~~ Department. (10-21-92)()

211. -- 219. (RESERVED)

220. MULTIPLE ZONE COMPLETIONS.

01. Requirements of the Owner or Operator; Request for Approval. A multiple zone completion may be approved by the ~~director~~ Department upon application ~~therefor~~ by the owner or operator and payment of an application fee, as herein provided. The application shall be accompanied by an exhibit showing the location of wells on applicant's lease and all offset wells on leases, and shall set forth all material facts involved and the manner and method of completion proposed, including a diagrammatic sketch of the mechanical installation of the proposed well. The application fee may not exceed that required by Subsection 050.02 of these rules. Notice of the filing of such application shall be given by the applicant by mailing to each ~~owner within one-half (1/2) mile of the affected well(s)~~ offset operator a notice containing a full description of the proposed completion for which approval is requested, and proof of mailing such notice shall be made by affidavit, which shall be attached to the application showing names and addresses of those to whom notice was mailed. (10-21-92)()

02. Conditions for Approval; Cause for Hearing. In the event the ~~director~~ Department is in agreement with the application and that no ~~owner offset operator~~ files a written objection to the application with the ~~director~~ Department within fifteen (15) days of the date of the ~~owner's offset operator's~~ receipt of application, the application shall be approved as an amendment to the drilling permit. If any ~~owner offset operator~~ shall file in writing with the ~~director~~ Department an objection to such multiple completion, or if the ~~director~~ Department is not in agreement with the application, the matter shall be immediately set for hearing and Notice of Hearing duly given by the ~~Commission~~ Department. (10-21-92)

03. Zone Effectiveness; Requirement for Production Testing. The ~~director~~ Department may require such tests as he determines necessary to determine the effectiveness of the segregation of the different productive zones. (10-21-92)()

04. Commingling Production. The Department may require that oil or gas from multiple zones be produced through different sets of tubing if needed to protect correlative rights or to prevent waste. ()

(BREAK IN CONTINUITY OF SECTIONS)

231. -- ~~234~~9. (RESERVED)

~~240. DISPOSAL OF BRINE OR SALT WATER.~~

~~01. Conditions for Disposal by Earthen Evaporation Pit; Impervious Floor. Brine or salt water may be disposed of by evaporation when impounded in excavated earthen pits, which may only be used for such purpose when the pit is underlaid by tight soil such as heavy clay or hardpan.~~ (10-21-92)

~~02. **Conditions for Disposal by Earthen Evaporation Pit; Porous Floor.** When the soil under the pit is porous and closely overlaid by a gravel or sand stratum, impounding brine or salt water in such earthen pits is hereby prohibited. When such water is impounded in an earthen pit, it shall be constructed and maintained to prevent escape of such water therefrom. (10-21-92)~~

~~03. **Earthen Pits; Condemnation Due to Improper Impoundment.** The Commission shall have authority to condemn any pit which does not properly impound such water and order the disposal of such water into an underground formation as herein provided. (10-21-92)~~

~~04. **Earthen Pits; General Conditions for Operation.** The level of brine or salt water in earthen pits shall at no time be permitted to rise above the lowest point of the ground surface level. All pits shall have a continuous embankment surrounding them sufficiently above the level of the surface to prevent surface water from running into the pit. Such embankment shall not be used to impound brine or salt water. (10-21-92)~~

~~05. **Earthen Pits; Prohibition of Adjacent Land or Stream Pollution.** At no time shall brine or salt water impounded in earthen pits be allowed to escape over adjacent lands or into streams. (10-21-92)~~

~~06. **Disposal Wells; Pollution Prohibited.** Disposal wells shall be cased and the casing cemented in such manner that damage will not be caused to oil, gas, or freshwater sources. See Section 250. (10-21-92)~~

~~241.—249. (RESERVED)~~

250. PROCEDURE FOR UNDERGROUND DISPOSAL OF WATER CLASS II INJECTION WELLS.
Class II injection wells, as described in IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells," are currently not authorized under this rule. Permits for Class II injection wells must be obtained through IDAPA 37.03.03. ()

~~01. **Approval Required.** The underground disposal of salt water, brackish water, or other water unfit for domestic, livestock, irrigation, or other general uses is permitted only upon order of the Commission or upon approval of the director as provided in this rule. (10-21-92)~~

~~02. **Procedures for Application.** The application for underground disposal of salt water, brackish water, or other water unfit for domestic, livestock, irrigation, or other general uses shall be verified by applicant and filed with the director containing:~~

~~a. A plat showing location of the disposal well(s), including abandoned and drilling wells and dry holes and the names of owners within one half (1/2) mile of the proposed disposal well(s). (10-21-92)~~

~~b. The names, description, and depth of the formation into which water is to be injected, including a mechanical log of the proposed disposal well(s) if one is available. (10-21-92)~~

~~c. A description of the casing in the disposal well(s) or the proposed casing program and the proposed method for testing casing before use of the disposal well(s). (10-21-92)~~

~~d. A statement specifying the source of water to be injected. (10-21-92)~~

~~e. The estimated minimum and maximum amount of water to be injected daily. (10-21-92)~~

~~f. Notice of the filing of such application shall be given by the applicant by mailing to each owner within one half (1/2) mile of the affected well(s) a notice containing a full description of the proposed disposal operation for which approval is required, and proof of mailing such notice shall be made by affidavit which shall be attached to the application showing names and addresses of those to whom notice was mailed. (10-21-92)~~

~~g. **Conditions for Approval; Cause for Hearing.** In the event the director is in agreement with the application and that no owner files a written objection to the application with the director within fifteen (15) days of receipt of the application, the application shall be approved. If any owner shall file in writing with the director an~~

~~objection to such disposal program, or if the director is not in agreement with the application, the matter shall be immediately set for hearing and notice of hearing duly given by the Commission.~~ (10-21-92)

251. -- 259. (RESERVED)

260. MEASUREMENT OF OIL.

The volume of production of oil shall be computed in terms of barrels of clean oil on the basis of meter measurements or tank measurements of oil-level difference made and recorded to the nearest quarter-inch (1/4") of one hundred percent (100%) capacity tables, subject to the following corrections: (10-21-92)

01. Correction for Impurities. The percentage of impurities (water, sand, and other foreign substances, not constituting a natural component part of the oil) shall be determined to the satisfaction of the ~~director~~ Department, and the observed gross volume of oil shall be corrected to exclude the entire volume of such impurities. (10-21-92)()

02. Temperature Correction. The observed volume of oil corrected for impurities shall be further corrected to the standard volume at sixty (60) Degrees F in accordance with ASTM D-1250-08, Table 7, or any revisions thereof and any supplements thereto, or any close approximation thereof approved by the ~~director~~ Department. (10-21-92)()

03. Gravity Determination. The gravity of oil at sixty (60) degrees F shall be determined in accordance with ASTM D-1250-08, Table 5, or any revisions thereof and any supplements thereto approved by the ~~director~~ Department. (10-21-92)()

261. -- 269. (RESERVED)

270. MEASUREMENT OF GAS.

Gas of all kinds shall be measured by meter unless otherwise authorized by the ~~director~~ Department. For computing volume of gas to be reported to the ~~director~~ Department, the standard of pressure shall be fourteen point seventy-three (14.73) psi atmospheric, and the standard of temperature shall be sixty (60) Degrees F. All volumes of gas to be reported to the ~~director~~ Department shall be adjusted by computation to these standards, unless otherwise authorized by the ~~director~~ Department. (10-21-92)()

271. -- 279. (RESERVED)

280. GAS-OIL RATIO LIMITATION.

01. Waste Prevention; Conditions for Emergency Order. To further prevent waste resulting from the production of wells with inefficient gas-oil ratios, the Department may enter an emergency order temporarily prohibiting the production of oil or gas from all wells in a pool producing both oil and gas when the Department believes that waste may be occurring or is imminent in said pool by reason of the operation of wells with inefficient gas-oil ratios. The order must specify a date for the hearing described in Subsection 280.02 of these rules. The Department may use information provided by an offset operator or an owner or operator in a common source of supply to determine if waste is occurring. ()

~~**02. Notice and Cause for Hearing.** *To prevent waste resulting from the operation of wells with inefficient gas-oil ratios, the Commission may upon its own motion, or upon the application of any interested party, if reasonable cause exists, hold a hearing to determine whether waste is occurring or is imminent in a pool by reason of the operation therein of wells with inefficient gas-oil ratios. The Department will notify all offset operators and owners or operators in the common source of supply of the hearing date. A hearing regarding waste due to inefficient gas-oil ratios will be held for any of the following reasons:*~~ (10-21-92)()

i. If an emergency order is issued as described in Subsection 280.01 of these rules. The hearing will be scheduled between five (5) and fifteen (15) days after the effective date of the order. ()

ii. Upon application to the Department from any person with an ownership interest in the common source of supply who believes that waste is occurring due to inefficient oil and gas ratios. The application must

include credible evidence of such waste. The hearing shall be held within thirty (30) days of the Department receiving the application. ()

iii. Prior to an emergency situation and upon its own motion with reasonable cause, the Department may schedule a hearing regarding potential waste due to inefficient gas-oil ratios. ()

023. Determination of Inefficient Ratios; Power to Limit Production. If the ~~Commission~~ Department after notice and hearing, whether held upon its own motion, upon the application of an interested party, or pursuant to an emergency order entered as hereinafter provided for, shall find that a well(s) in the pool are operating with inefficient gas-oil ratios, and that waste is occurring or is imminent as a result thereof, it shall enter an order limiting the production of oil and gas from said pool to that amount which the pool can produce without waste and in accordance with sound engineering practice. The order shall also limit the amount of oil or gas, or both, that may be produced from any well in the pool, so that each owner or operator is given an opportunity to produce his just and equitable share in the pool in accordance with sound engineering practice. (10-21-92)()

~~03. Waste Prevention; Conditions for Emergency Order. To further prevent waste resulting from the production of wells with inefficient gas oil ratios, the Commission will enter an emergency order temporarily prohibiting the production of oil or gas from all wells in a pool producing both oil and gas when: (10-21-92)~~

~~a. The director believes that waste may be occurring or is imminent in said pool by reason of the operation of wells with inefficient gas-oil ratios; or when (10-21-92)~~

~~b. An application is filed by any interested party alleging that a well(s) completed in the pool is producing therefrom at a gas-oil ratio in excess of two thousand (2,000) cubic feet of gas for each barrel of oil produced and that waste is occurring or is imminent as a result thereof. Any such applicant shall also show the name and address of each owner of a well completed in and capable of producing from said pool. (10-21-92)~~

~~04. Emergency Order; Requirement for Hearing. Any emergency order issued under this rule shall provide for a hearing to be held to determine whether waste is occurring or is imminent. The date for the hearing shall be not less than five (5) nor more than fifteen (15) days after the effective date of the emergency order and shall be specified in said order. In addition to any other notice required by the Act, the Commission shall mail a copy of said emergency order to each owner of a well completed in and capable of producing from said pool. (10-21-92)~~

281. -- 289. (RESERVED)

290. GAS-OIL RATIO SURVEYS AND REPORTS.

Within thirty (30) days following the completion or recompletion of each well producing oil and gas and thereafter as the ~~Commission~~ Department may require, the owner or operator of such well shall make a gas-oil ratio test of such well and the results of such test shall be reported to the ~~Commission~~ Department within twenty (20) days after the test is made. Certain wells may be excepted from this rule by the ~~director~~ Department upon written request. Entire fields may be excepted from this rule after notice and hearing. (10-21-92)()

291. -- 299. (RESERVED)

300. GAS UTILIZATION.

After the owner or operator has completed and has had a reasonable opportunity to test a gas well, no gas from such well shall be permitted to escape into the air, and all gas produced therefrom shall be utilized without waste. (10-21-92)()

~~301. -- 309. (RESERVED)~~

~~310. SECONDARY RECOVERY (INCLUDING WATER FLOODING) AND PRESSURE MAINTENANCE OPERATIONS.~~

~~01. Applications for Secondary Recovery Projects. (10-21-92)~~

~~a. Applications Required. Applications for water flooding or other secondary recovery operations;~~

~~repressuring, or pressure-maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas in connection therewith, shall be filed by one (1) or more of the parties involved, or the operator of said project with the director. (10-21-92)~~

~~**b.** Requirements of the Application. The application for all permits for pressure maintenance or secondary recovery shall contain the following: (10-21-92)~~

~~i. Plat showing the unit, lease, or group of leases included within the proposed project. Plat shall also show the location of the proposed intake well(s) and the location of all oil and gas wells, including abandoned and drilling wells and dry holes, and the names of all operators offsetting the area encompassed within the project; (10-21-92)~~

~~ii. Formations in which all wells are currently completed; (10-21-92)~~

~~iii. Name, description, and depth of the formation (common reservoir or common source of supply) to be affected by injection; (10-21-92)~~

~~iv. Log of any existing intake well(s) or such information as is available; (10-21-92)~~

~~v. Description of the intake well's casing or the proposed casing program, and proposed method for testing casing before use of the input wells; (10-21-92)~~

~~vi. Statement as to the injection medium to be used, its source, and the estimated amounts to be injected daily; (10-21-92)~~

~~vii. Tabulations showing recent oil gas ratios and oil and water production tests for each of the producing oil and gas wells; (10-21-92)~~

~~viii. Statement of the plan of development of the area included within the project; and (10-21-92)~~

~~ix. Names and addresses of the operator(s) of the project. (10-21-92)~~

~~**e.** Notification of Adjacent Property Owners. In addition to the notice required by law, a copy of such application shall be mailed or delivered by the applicant to each owner within three-fourths (3/4) mile of the project as shown on the application. Such copy of application shall be mailed or delivered on or before the date the application is filed with the Commission. A statement shall be attached to the application showing the parties to whom such copies have been mailed or delivered and their addresses. (10-21-92)~~

~~**d.** Conditions for Approval; Cause of Hearing. If the application has requested approval of the operation as a pilot project; if director is in agreement with the application; and if no owner within three-fourths (3/4) mile files a written objection to the application with the director within fifteen (15) days of the date of receipt of the application, the application shall be approved as a pilot project without the necessity of a hearing. In all other cases, the matter shall be immediately set for hearing. Notice of the hearing shall be given by the Commission. At any time after the approval of an operation as a pilot project, if the director or the operator of the project believes that sufficient information has been obtained so that the operation is no longer a pilot project, either of them may request a hearing before the Commission for approval of the operation. (10-21-92)~~

~~**02.** Casing and Cementing of Injection Wells. Wells used for injection of gas, air, or water or other extraneous fluids into the producing formation shall be cased with safe and adequate casing or tubing to prevent leakage or damage to oil, gas, or freshwater sources. (10-21-92)~~

~~**03.** Notice of Commencement and Discontinuance of Injection Operations. The following provisions shall apply to all injection projects: (10-21-92)~~

~~**a.** Immediately upon commencement of injection operations, the operator shall notify the director of the injection date. (10-21-92)~~

~~b. Within fifteen (15) days after the discontinuance of injection operations, the operator shall notify the director of the date of such discontinuance and the reasons therefor. (10-21-92)~~

~~e. Before any intake well shall be plugged, notice shall be served to the director by the owner of said well, and the same procedure shall be followed in the plugging of such well as provided for the plugging of oil and gas wells. (10-21-92)~~

~~04. **Records and Reports.** Each operator of a pressure maintenance or secondary recovery project shall keep accurate records showing oil produced, injected volumes, and injection pressure. Each operator shall file with the director a monthly report which shall show all produced and injected volumes and other data as required by the Commission. (10-21-92)~~

~~310. -- 319. (RESERVED)~~

320. WELL PLUGGING.

01. Plugging Required. The operator or owner shall not permit any well drilled for oil, gas, saltwater disposal or any other purpose in connection with the production of oil and gas, to remain unplugged after such well is no longer used for the purpose for which it was drilled or converted. (10-21-92)

02. Notice of Intention to Abandon Well. Before beginning abandonment work on ~~any well, whether drilling well, an~~ oil or gas well, ~~injection well, or so-called dry hole,~~ a Notice of Intention to Abandon shall be filed with the ~~director~~ Department and approval obtained as to the method of abandonment before the work is started. The notice must show the reason for abandonment and must give a detailed statement of the proposed work, including such information as kind, location, and length of plugs (by depths), and plans for mudding, cementing, shooting, testing, and removing casing as well as any other pertinent information. (10-21-92)()

03. Plugging Dry Holes. If a nonproductive well, or dry hole, is drilled and not needed for any specific purpose, it must be plugged and abandoned prior to removal of the drill rig. A verbal notification and approval may be used for dry holes in lieu of the written notification referenced in Subsection 320.02 of these rules. ()

034. Plugging of Wells. The owner or operator of any well drilled for oil or gas, or any seismic, core, or other exploratory holes, whether cased or uncased, and regardless of diameter shall be responsible for the plugging of said hole in a manner sufficient to properly protect all freshwater-bearing and possible or probable oil- or gas-bearing formations in agreement with the requirements of the director. The material used in plugging, whether cement, mechanical plug, or some other equivalent method approved in writing by the Director, must be placed in the well in a manner to permanently prevent migration of oil, gas, water, or other substance from the formation or horizon in which it originally occurred. The preferred plugging cement slurry is that recommended in API Bulletin E3. Pozzolan, gel, and other approved extenders may be used if the owner or operator can document to the Department's satisfaction that the slurry design will achieve a minimum compressive strength of three hundred (300) psi after twenty-four (24) hours, and eight hundred (800) psi after seventy-two (72) hours measured at ninety-five (95) degrees F and at eight hundred (800) psi. No substances of any nature or description other than those normally used in plugging operations shall be placed in any well at any time during plugging operations. (10-21-92)()

05. Plugged Intervals. The following plugging standards shall be followed for all wells: ()

a. Cement must be placed for a length of at least one hundred (100) feet on either side of each casing shoe, or casing bottom if no shoe is present. If the bottom of the hole is less than one hundred (100) feet from the bottom of the lowest casing, then the entire length of the uncased hole below the casing will be cemented. ()

b. In the uncased portions of a well, cement plugs must be placed to extend from one hundred (100) feet below the bottom up to one hundred (100) feet above the top of any oil, gas, and abnormally high pressure zones, so as to isolate fluids in the strata in which they are found and to prevent them from escaping into other strata. ()

c. A cement plug shall be placed a minimum of one hundred (100) feet above all producing zones in uncased portions of a well. ()

d. A cement plug shall be placed a minimum of fifty (50) feet above and below the following intervals: ()

i. Where the casing is perforated or ruptured. If no cement is present behind the casing, then cement must also be squeezed out the perforations or ruptures and into the annular space between the casing and the borehole. ()

ii. Top and bottom of fresh water zones. If fresh water zone is less than one hundred (100) feet thick, then continuous cement must be placed from fifty (50) feet below the zone upward to fifty (50) feet above the zone. ()

e. The top of all cement plugs will be tagged to verify their depth. ()

f. The owner or operator shall have the option as to the method of placing cement in the hole by: ()

i. Dump bailer; ()

ii. Pumping a balanced cement plug through tubing or drill pipe; ()

iii. Pump and plug; or ()

iv. Equivalent method approved by the Director prior to plugging. ()

g. Unless prior approval is given, all wellbores shall have water based drilling muds, high viscosity pills, or other approved fluids between all plugs. ()

h. All abandoned wells shall have a plug or seal placed at the surface of the ground or the bottom of the cellar in the hole in such manner as not to interfere with soil cultivation or other surface use. The top of the pipe must be sealed with either a cement plug and a screw cap, or cement plug and a steel plate welded in place or by other approved method, or in the alternative be marked with a permanent monument which shall consist of a piece of pipe not less than four (4) inches in diameter and not less than ten (10) feet in length, of which four (4) feet shall be above the general ground level, the remainder to be embedded in cement or to be welded to the surface casing. ()

046. Subsequent Report of Abandonment. If a well is plugged or abandoned, a subsequent record of work done must be filed with the director Department. This report shall be filed separately within thirty (30) days after the work is done. The report shall give a detailed account of the manner in which the abandonment of plugging work was carried out, including the weight of mud, the nature and quantities of materials used in plugging, the location and extent (by depths) of the plugs of different materials, and the records of any tests or measurements made and of the amount, size, and location (by depths) of casing left in the well. If an attempt was made to part any casing, a complete report of the method used and the results obtained must be included. (10-21-92)()

057. Wells Used for Fresh Water (Cold Water < 85 degrees Fahrenheit), Low Temperature Geothermal (85 – 212 Degrees Fahrenheit) or Geothermal Wells (>212 Degrees Fahrenheit). ~~When the well, seismic, core, or other exploratory hole to be plugged may safely be used as a fresh water well, and such utilization is desired by the landowner, the well need not be filled above the required sealing plug set below fresh water; provided that written authority for such use is secured from the landowner and in such written authority, the landowner assumes the responsibility to plug the well upon its abandonment as a water well in agreement with applicable law. Such written authority and assumption of responsibility shall be filed with the director.~~ (10-21-92)()

a. Well Conversion. Oil and gas wells, seismic, core or other exploratory holes no longer being used for their original purpose may not be converted into fresh water, low temperature geothermal, or geothermal wells unless the following actions occur: ()

i. Owner, operator, or surface owner files an application with the IDWR describing the conversion and the proposed use for the water or geothermal resource and any modifications necessary to meet the applicable

well construction standards: ()

ii. The surface owner provides written documentation assuming responsibility for the converted well including, should it become necessary, decommissioning (plugging) of the converted well in accordance with applicable law: ()

iii. IDWR issues a permit for a geothermal resource well, a water right, or recognizes a domestic exemption authorizing the withdrawal of water from the converted well; and ()

iv. A licensed driller in Idaho inspects and certifies that the converted well meets all well construction standards for its intended purpose. ()

b. Release by Idaho Department of Lands. The Department's bond may not be released, and the oil and gas permit cancelled, until all requirements in Paragraph 320.07.a of these rules are met. ()

321. -- ~~320~~4. (RESERVED)

321. -- ~~329~~324.(Reserved).

325. SURFACE RECLAMATION.

01. Timing of Reclamation. After the plugging and abandonment of a well or closure of other oil and gas facilities, all reclamation work described in this Section shall be completed within twelve (12) months. The Director may grant an extension where unusual circumstances are encountered, but every reasonable effort shall be made to complete reclamation before the next local growing season. ()

02. General Clean Up. All debris, abandoned gathering line risers and flowline risers, surface equipment, supplies, rubbish, and other waste materials shall be removed within three (3) months of plugging a well. The burning or burial of such material on the premises shall be performed in accordance with applicable local, state, or federal solid waste disposal and air quality regulations. In addition, material may be burned or buried on the premises only with the prior written consent of the surface owner. ()

03. Road Removal. All access roads to plugged and abandoned wells and associated production facilities shall be ripped, regraded, and recontoured unless otherwise specified in a surface use agreement. Culverts and any other obstructions that were part of the access road(s) shall be removed. Roads to be left will be graded to drain and prepared with rolling dips or other best management practices to minimize erosion. ()

04. Regrading. Drill pads, pits, berms, cut and fill slopes, and other disturbed areas will be regraded to approximate the original contour. Where possible, slopes should be reduced to three (3) horizontal feet to one (1) vertical foot (3H:1V) or flatter. ()

05. Compacted Areas. All areas compacted by drilling and subsequent oil and gas operations which are no longer needed following completion of such operations shall be cross-ripped. Ripping shall be undertaken to a depth of eighteen (18) inches or bedrock, whichever is reached first. ()

06. Topsoiling. Stockpiled topsoil shall be replaced in a manner that will support reestablishment of the pre-disturbance land use and contoured to control erosion and provide long-term stability. If necessary, topsoiled areas shall be tilled adequately in order to establish a proper seedbed. ()

07. Revegetation. ()

a. The owner or operator shall select and establish plant species that can be expected to result in vegetation comparable to that growing on the affected lands prior to the oil and gas operations. Certified weed free seed should be used in revegetation. The owner or operator may use available technical data and results of field tests for selecting seeding practices and soil amendments which will result in viable revegetation. ()

b. The disturbed areas shall be reseeded in the first favorable season following rig demobilization, site regrading, and topsoil replacement. ()

c. Unless otherwise specified in the approved permit, the success of revegetation efforts shall be measured against the existing vegetation on site prior to the oil and gas operations, or against an adjacent reference area supporting similar types of vegetation. Reseeding or replanting is required until the following cover standards are met: ()

i. The ground cover of living plants on the revegetated area should be comparable to the ground cover of living plants on an adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation, if used; ()

ii. Ground cover shall be considered comparable if the planted area has at least seventy percent (70%) of the pre-disturbance, or adjacent reference area, ground cover; ()

iii. For locations with an average annual precipitation of more than twenty-six (26) inches, the Department, in approving a drilling permit or a pit, may set a minimum standard for success of revegetation as follows: Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species; ()

iv. As used in this section, "herbaceous species" means grasses, legumes, and other forbs; "woody plants" means woody shrubs, trees, and vines; and "ground cover" means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measured. Rock surface areas will be excluded from this calculation; and ()

v. In all cases, vegetative cover shall be established to the extent necessary to control erosion. ()

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

e. By mutual agreement of the Department, the surface owner, and the owner or operator, a site may be converted to a different, more desirable or more economically suitable habitat. ()

f. Planting of grasses and forbs should be done in a manner which promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable. ()

g. The owner or operator should plant shrubs or shrub seed, as required, where shrub communities existed prior to oil and gas operations. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after grass seeding. Where the surface owner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs shall be protected from erosion by vegetation, chemical binders, or other acceptable means during establishment of the shrubs. ()

h. Tree stocking of forestlands should meet the following criteria: ()

i. Trees that are adapted to the site should be planted in a density which can be expected over time to yield a timber stand comparable to pre-disturbance timber stands; ()

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

iii. Forestlands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. ()

i. Revegetation is not required on areas that the surface owner wishes to incorporate into an irrigated field and any roads which will be used for other oil and gas operations. ()

j. Mulch should be used on severe sites and may be required by the permit where slopes are steeper than three (3) horizontal feet to one (1) vertical foot (3H:1V) or the mean annual rainfall is less than twelve (12) inches. When used, straw, or hay mulch should be obtained from certified weed free sources. "Mulch" means vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation which will provide a micro-climate more suitable for germination and growth on severe sites. Annual grains such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time. ()

08. Reclamation Under a Surface Use Agreement. Notwithstanding the requirements of Subsections 325.03 through 325.07 of this rule, reclamation may be superseded by the conditions of a surface use agreement as long as the site is left in a stable, non-eroding condition that will not impact fresh waters. ()

326. -- 329. (RESERVED)

330. WELL SPACING.

In the absence of an order by the Commission setting spacing units for a pool, or a unit operation as described in Section 340, the following rules shall apply: (10-21-92)()

01. Wells Drilled for Oil; Standard Spacing Unit and Well Location. Every well drilled for oil must be located in the center of a forty (40) acre governmental quarter quarter section, lot or tract, or combination of lots or tracts substantially equivalent thereto as shown by the most recent governmental survey, with a tolerance of two hundred (200) feet in any direction from the center location; provided that no oil well shall be drilled less than nine hundred twenty (920) feet from any other well drilling to or capable of producing oil from the same pool, or no oil well shall be completed in a known pool unless it is located more than nine hundred twenty (920) feet from any other well completed in and capable of producing oil from the same pool. (10-21-92)

02. Wells Drilled for Gas; Standard Spacing Unit and Well Location. Every well drilled for gas must be located on a drilling unit consisting of approximately six hundred forty (640) contiguous surface acres, which shall be one governmental section or lot(s) equivalent thereto, upon which there is not located, and of which no part is attributed to, any other well completed in or drilling to the same pool. In areas not covered by United States Public Land Surveys, such drilling unit shall consist of an area which is: 1) bounded by four (4) sides intersecting at angles of not less than eighty five (85) degrees or more than ninety five (95) degrees; 2) the distance between two (2) points farthest apart thereon shall not exceed eight thousand five hundred (8,500) feet; and 3) shall contain at least six hundred (600) contiguous surface acres. In areas covered by United States Public Land Surveys, such drilling unit shall consist of one governmental section containing not less than six hundred (600) surface acres. Each well drilled for gas shall be located within a square, each side of which is one thousand six hundred sixty (1,660) feet in length and parallel to a center line of the section. The center of such square shall coincide with the geometric center of the section. (10-21-92)

03. Well Locations Adjacent to Spaced Areas. The Commission shall have the discretion to determine the pattern location of wells adjacent to an area spaced by the Commission, or under application for spacing where there is sufficient evidence to indicate that the pool or reservoir spaced or about to be spaced may extend beyond the boundary of the spacing order or application, and the uniformity of spacing patterns is necessary to insure orderly development of the reservoir pool. (10-21-92)

04. Exceptions to Location of Wells and Well-Spacing Orders. Upon proper application therefore, the ~~director~~ Department may approve, as an administrative matter, an exception to Subsections 330.01 and 330.02 or any order of the Commission establishing well spacing for a pool. ~~If for any reason the Commission shall fail or refuse to approve such an exception, the director may, after notice and hearing, grant the exception.~~ The application for an exception shall state fully the reasons why such an exception is necessary or desirable and shall be accompanied by a plat showing: (10-21-92)()

a. The location at which an oil or gas well could be drilled in compliance with Subsections 330.01 or 330.02 or the applicable order; (10-21-92)

b. The location at which the applicant requests permission to drill; and (10-21-92)

c. The location at which oil or gas wells have been drilled or could be drilled, in agreement with Subsections 330.01 or 330.02 or the applicable order, directly or diagonally offsetting the proposed exception. No exception shall prevent any owner or operator from drilling an oil or gas well on adjacent lands, directly or diagonally offsetting the exception, at locations permitted by Subsections 330.01 or 330.02 or any applicable order of the Commission establishing oil or gas well-spacing units for the pool involved. (10-21-92)()

331. -- 339. (RESERVED)

340. UNIT OPERATIONS.

Any person desiring to obtain the benefits of Section 47-323, Idaho Code, relating to any method of unit, cooperative development, or operation of a field or pool or a part of either, shall file an application with the ~~director~~ Department for approval of such agreement which shall have attached a copy of such agreement. Notice of the hearing of such application shall be given by publication of a legal notice in a newspaper of general circulation in Ada County, Idaho, and the county of the unit operation. (10-21-92)()

341. -- 349. (RESERVED)

350. WRITTEN NOTICES, REQUESTS, PERMITS AND REPORTS.

The ~~Commission~~ Department shall adopt such forms of notices, requests, permits, and reports as it may deem advisable or necessary in carrying out the provisions of law and its rules and regulations. (10-21-92)()

351. -- 359. (RESERVED)

360. GEOPHYSICAL OPERATIONS.

~~01- Notice to Inhabitants. Before a geophysical contractor conducts surface shooting operations, he shall give notice to an occupant of every inhabited dwelling within a one-mile radius of each shot point. Such notice shall be given in writing or by in-person contact. The notice shall tell the occupant of the nature and approximate time period of the seismic surface shooting activity. (10-21-92)~~

021. Permit Required. Before beginning seismic shothole operations in the state of Idaho, a representative of the client company and the seismic contractor shall meet with the staff of the ~~Commission and~~ Department, file an application for a permit to conduct seismic operations, and pay an application fee. No seismic operation shall be conducted without such a permit. The ~~director~~ Department has discretion to waive the requirement of the pre-permit meeting for the client company. The permit for seismic operations may be revoked or suspended or the application for the permit denied by the ~~Commission or director~~ Department for failure to comply with the Commission's rules, statutes, and orders. The ~~director~~ Department may revoke, suspend, or deny the application for a seismic permit without a hearing; provided that the seismic contractor shall be given an opportunity for a hearing at the next regularly scheduled Commission meeting. The fact that a permit is revoked or suspended does not excuse the seismic contractor or client company from properly plugging existing seismic holes but does prohibit the person(s) from drilling any more. The application for a permit for seismic operations must include: (10-21-92)()

a. The proposed route of the seismic line on a topographic or recent air photo base map at a sufficient scale to show roads, buildings, surface waters, and Section, Township, and Range lines. The map must also show additional area as needed for any alternative routing. The alternative routing must be within at least one-half (1/2) mile of the proposed route. Reapplication must be made if the final route strays from the proposed route and outside the designated alternative routing areas; and ()

b. The energy sources proposed to be used for the seismic operation, such as vibroseis, shot holes, surface shot, or others. ()

ec. The approximate number, depth, and location of the seismic holes and the size of the explosive charges. The application shall be accompanied by a map with a scale of one inch equaling two (2) miles that shows the depth and location of the shotholes. (10-21-92)

ed. The name and permanent address of the client company the ~~Commission or director~~ Department may contact about the seismic operation. (10-21-92)()

ee. The name, permanent address, and phone number of the seismic contractor and his local representative whom the ~~Commission or director~~ Department may contact about the seismic activity. (10-21-92)()

ef. The name, phone number, and permanent address of the hole plugging contractor, if different from the seismic contractor. (10-21-92)

eg. A detailed description of the hole plugging procedures, and a description of the surface reclamation procedures, if such reclamation is needed. (10-21-92)()

eh. The anticipated starting date of seismic ~~and plugging~~ operations. (10-21-92)()

ei. The anticipated completion date of seismic ~~and plugging~~ operations, and the anticipated date of any required reclamation or hole plugging. (10-21-92)()

ej. A description of the identifying mark that will be on the hat or nonmetallic plug to be used in the plugging of the seismic hole. (10-21-92)

02. Operating Requirements. All geophysical operations must comply with the following requirements: ()

a. All vehicles utilized by the permit holder, or its agents or contractors, shall be clearly identified by signs or markings utilizing letters or numbers, or a combination thereof, a minimum of three (3) inches in height and one-half (1/2) inch wide, indicating the name of such agent. ()

b. No seismic source generation from vibroseis, shot holes, surface shot, or other method shall be conducted within two hundred (200) feet of any residence, water well, oil well, gas well, injection well or other structure without having first secured the express written authority of the owner(s) thereof and the permit holder shall be responsible for any resulting damages. ()

c. Written authority from the owner of a residence, water well, oil well, gas well, injection well or other structure must also be obtained from the owner(s) if any explosive charge exceeds the maximum allowable charge within the scaled distance below:

| <u>DISTANCE TO STRUCTURE (Feet)*</u> | <u>MAXIMUM ALLOWABLE CHARGE WEIGHTS (Pounds)*</u> |
|--------------------------------------|---|
| <u>50</u> | <u>0.5</u> |
| <u>100</u> | <u>2.0</u> |
| <u>150</u> | <u>4.5</u> |
| <u>200</u> | <u>8.0</u> |
| <u>250</u> | <u>12.0</u> |
| <u>300</u> | <u>18.0</u> |
| <u>350</u> | <u>25.0</u> |

* Based upon a charge weight of seventy (70) Foot/Pound^{1/2}. ()

d. The maximum allowable charge weight is twenty-five (25) pounds, unless the permit holder requests and secures the prior written authorization from the Department. ()

e. All seismic sources placed for detonation shall contain additives to accelerate the biodegradation thereof and shall be handled with due care in accordance with industry standards. The cap leads for any seismic sources that fail to detonate shall be buried at least three (3) feet deep. ()

f. All vegetation cleared to the ground shall be cleared in a competent and workmanlike manner in the exercise of due care. ()

g. Unless otherwise consented to by the surface owner in writing, permit holder shall not cut down any tree measuring six (6) inches or more in diameter, as measured at a height of three (3) feet from the ground surface, unless there are no reasonable alternatives to the removal of such tree(s) available to permit holder. Permit holder shall compensate surface owner the value of all such trees. ()

h. All excessive rutting or soil disturbances shall be repaired or restored to the original condition and contour to the extent reasonable, unless otherwise agreed to by the permit holder and the surface owner in writing. ()

i. All fences removed shall be replaced, unless otherwise agreed to by the permit holder and the surface owner in writing. ()

j. All debris associated with the seismic activity shall be removed and properly disposed. ()

03. Bond Required. ()

a. Before beginning geophysical operations, the geophysical contractor must file and have approved by the ~~director~~ Department a bond in the amount of at least ten thousand dollars (\$10,000). The Department may increase this bonding requirement for geophysical contractors based on the amount of potential damage from the contemplated operation. The condition of such bond shall comply with the ~~Oil and Gas Conservation Law Act~~, the rules and orders of the Commission, and orders of the ~~director and/or his duly authorized representatives~~ Department. The obligation of the bond shall not be discharged until one (1) year from completion of the survey or until the geophysical contractor has complied with the Oil and Gas Conservation Law, the Commission's rules, and the orders of the Commission and ~~director and their agents~~ the Department. ~~Provided, upon verified application, the director may waive or modify this bonding requirement for geophysical contractors based on the amount of potential damage from the contemplated operation.~~ (10-21-92)()

a.b. Persons or other entities who engage in the plugging of seismic holes and are not a regular full-time employee of the seismic company, owner, or operator shall have posted with the director a surety bond in favor of the ~~Commission~~ Department. Said bond shall be on a form prescribed by the ~~Commission~~ Department and in the amount of five thousand dollars (\$5,000). The condition of the bond shall comply with the Oil and Gas Conservation Law and the regulations and orders of ~~this~~ the Commission and the ~~director and their duly authorized agents and employees~~ Department. (10-21-92)()

04. Newspaper Notice. Before a geophysical contractor conducts the geophysical operation, they shall publish a legal notice in a newspaper of general circulation in the county where the survey will be conducted. The notice shall state the nature and approximate time period of the seismic operations. These requirements do not apply to operations conducted within a well or conducted by aerial surveys. ()

05. Owner and Occupant Notification. No entry shall be made by any person to conduct seismic operations, upon the lands where such seismic operations are to be conducted, without the permit holder having first given notice at least thirty (30) calendar days prior to commencement of field seismic operations. ()

a. The notice shall be in writing and given either personally or by certified United States mail to the following persons: ()

i. Surface owners reflected in the tax records of the counties where the lands are located, at the mailing addresses identified for such surface owners in such records; ()

ii. Occupants residing on the lands who are not the surface owners, if it can be reasonably ascertained that there are such occupants; and ()

iii. Owners or operators of oil and gas wells within the seismic survey area, as reflected in Department ()

records. ()

b. The notice shall contain the following: ()

i. Name of the person or entity that is conducting the seismic operations: ()

ii. Proposed location of the seismic operations; and ()

iii. Approximate date the person or entity proposes to commence seismic operations. ()

06. Department Notifications. ()

a. The permit holder shall also notify the Department within five (5) business days of the commencement and completion of each seismic operation. ()

b. Before beginning geophysical operations other than seismic operations, the geophysical contractor shall file a notice of intention to do so with the Department. Said notice shall describe the geophysical method to be used and be accompanied by a map of a scale of one (1) inch equals two (2) miles showing the location of the project. ()

047. **Reports and Notices Required.** (10-21-92)

a. Activity Report. Upon completion of the seismic activity or at thirty (30) day intervals after the work has commenced, whichever occurs first, the seismic contractor shall file with the ~~director~~ Department a report of the completion or progress of the seismic project. The final completion report shall be in affidavit form and shall include a seven and one-half (7.5) - or fifteen (15) minute ~~United States Geological Survey~~ topographic quadrangle map (at a scale of one (1) inch equals two thousand (2,000) feet or one (1) inch equals four thousand (4,000) feet that shows section, township, and range) and the location of each ~~shothole~~ survey so that the shotholes and other potential impacts can be easily located. The final completion report shall also include a statement that all work has been performed in compliance with the application for a permit to perform seismic activity, Commission Rule 360, and permit provisions. Said maps, applications, and reports shall be kept confidential by the ~~Commission~~ Department for a period of ~~five one (51)~~ years from the date of receipt, subject to the needs of the ~~director~~ Department to use them to enforce these regulations, the ~~Oil and Gas Conservation Law Act~~, and the orders of the Commission or ~~director~~ the Department. Also, the owner of the surface of the land may be advised of the location of seismic lines or seismic holes on his land and of the exploration method used. (~~10-21-92~~)()

b. Plugging Notice. Seismic contractors shall give the ~~Commission or director~~ Department at least twenty-four (24) hours advance notice of shothole plugging operations, provided that notice of plugging operations planned for Sunday or Monday may be given on the previous Friday. (~~10-21-92~~)()

c. ~~Other Notices.~~ Before beginning geophysical operations other than seismic operations, the geophysical contractor shall file a notice of intention to do so with the Commission. Said notice shall describe the geophysical method to be used and be accompanied by a map of a scale of one inch equals two (2) miles showing the location of the project. (~~10-21-92~~)()

058. **Client-Contractor Responsibility.** The client company may be held responsible along with the seismic contractor for conducting the operation in compliance with the Commission's rules and orders, the ~~director's~~ Department's orders, and the ~~Idaho Oil and Gas Conservation Law Act~~ for the seismic contractor's failure to comply with such rules, statutes, and orders. The hats used in the plugging of seismic holes shall be imprinted with the name of the contractor responsible for the plugging of the hole. (~~10-21-92~~)()

069. **Plugging.** Unless the seismic contractor can prove to the satisfaction of the ~~director~~ Department that another method will provide better protection to ground water and long-term land stability, seismic shothole operations shall be conducted in the following manner: (~~10-21-92~~)()

a. When water is used in conjunction with the drilling of seismic shotholes and artesian flow is not encountered at the surface, seismic holes are to be filled with a high grade bentonite/water slurry mixture. Said slurry

shall have a density that is at least four percent (4%) greater than the density of fresh water; said slurry shall also have a Marsh funnel viscosity of at least sixty (60) seconds per quart. Density and viscosity are to be measured prior to adding cuttings to the slurry. Cuttings not added to the slurry are to be disposed of in accordance with Subsections 360.069.f. of this rule. Any other suitable plugging material commonly used in the industry may be substituted for the bentonite/water slurry as long as the physical characteristics of said substitute are at least comparable to those of the bentonite/water slurry. Between November 1 and May 1, coarse ground bentonite approved by the ~~director~~ Department shall be used as a plugging material. (10-21-92)()

b. The hole will be filled with the slurry from the bottom up to a depth of three (3) feet (three (3) feet below ground level). A nonmetallic plug will be set at this depth of three (3) feet, and the remaining hole will be filled and tamped to the surface with cuttings and native soil. (10-21-92)

c. When drilling with air and nonartesian water is encountered, the hole shall be plugged with the slurry mixture, or coarse ground bentonite, as specified in Subsections 360.069.a., supra. (10-21-92)()

d. When drilling with air only and in completely dry holes, plugging may be accomplished by returning the cuttings to the hole, tamping the returned cuttings to the above-referenced depth of three (3) feet, and setting the permplug topped with more cuttings and soil as per Subsection 360.069.b. above. A small mound will be left over the hole for settling allowance. Auger holes twenty (20) feet or less in depth may be plugged in this same manner. (10-21-92)()

e. The foregoing seismic holes shall be properly plugged and abandoned as soon as practical after the shot has been fired; however, a shot hole shall not be left unplugged for more than thirty (30) days without approval of the ~~director~~ Department. (10-21-92)()

f. Any slurry, drilling fluid, or cuttings which are deposited on the surface around the seismic hole will be raked or otherwise spread out to at least within one (1) inch of the surface, so that the growth of the natural grasses or foliage will not be impaired. (10-21-92)

~~g. Seismic shothole operations will not be conducted within one-quarter (1/4) mile of any building or water well, flowing spring, or stockwater pipeline.~~ (10-21-92)

~~h.g.~~ Guidelines: Subsections The requirements of Paragraphs 360.069.a. through 360.069.~~g~~f. above may be modified by any reasonable written agreement between the seismic company and the surface owner. (10-21-92)()

~~h.~~ If artesian flow (water flowing at the surface) is encountered in the drilling of any seismic hole, cement will be used to seal off the water flow thereby preventing cross-flow, erosion, and/or contamination of freshwater supplies. Said holes shall be cemented immediately; ~~unless severe weather conditions prevent access. Landowners may assume liability for seismic holes that are capable of conversion to water wells by sending a letter assuming such liability to the director and filing an application for appropriation of underground water with the Department of Water Resources.~~ (10-21-92)()

~~j.~~ After completing the plugging of seismic shot holes and spreading the cuttings as required by this rule, the seismic contractor shall mark record the exact GPS location of the seismic hole, ~~with a wooden stake that extends approximately two (2) inches above ground. This requirement may be waived by the director if the landowner consents to it~~ and the contractor shall provide the location data to the Department. (10-21-92)()

10. Forfeiture of Geophysical Exploration Bond. The Department may forfeit the bond submitted under Subsection 360.03 of these rules upon failure of the owner or operator to conduct the seismic survey and complete reclamation in conformance with Section 360 of this rule. The owner or operator will be given an opportunity to address compliance issues prior to the Department taking action against the bond. ()

361. -- ~~369~~. (RESERVED)

370. ENFORCEMENT.
The Department shall enforce these rules pursuant to Section 47-325, Idaho Code. ()

371. -- 999. **(RESERVED)**